

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 19-23649-rdd

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5 In the Matter of:

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7 PURDUE PHARMA L.P.,

8

9 Debtor.

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13 United States Bankruptcy Court

14 300 Quarropas Street, Room 248

15 White Plains, NY 10601

16

17 October 28, 2020

18 11:19 AM

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21 B E F O R E :

22 HON ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: UNKNOWN

1 HEARING re Notice of Agenda / Agenda for October 28, 2020

2 Hearing

3

4 HEARING re Motion to Authorize / Motion of Debtors for Entry  
5 of an Order Authorizing Implementation of a Key Employee  
6 Incentive Plan and a Key Employee Retention Plan (ECF #1674)

7

8 HEARING re Objection to Motion For Order Authorizing  
9 Implementation of a Key Employee Incentive Plan and a Key  
10 Employee Retention Plan (related document(s)1674) filed by  
11 Paul Kenan Schwartzberg on behalf of United States Trustee  
12 (ECF #1708)

13

14 HEARING re Objection to Motion (related document(s)1674)  
15 filed by Paul A. Rachmuth on behalf of Ad Hoc Committee on  
16 Accountability (ECF #1709)

17

18 HEARING re Memorandum of Law In Support of Ad Hoc Committee  
19 on Accountability's Objection to Debtors' Motion to Pay  
20 Bonuses (related document(s)1674) filed by Paul A. Rachmuth  
21 on behalf of Ad Hoc Committee on Accountability (ECF #1710)

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1 HEARING re Debtors' Omnibus Reply in Support of Motion of  
2 Debtors for Entry of an Order Authorizing Implementation of  
3 a Key Employee Incentive Plan and a Key Employee Retention  
4 Plan (related document(s)1674) filed by Eli J. Vonnegut on  
5 behalf of Purdue Pharma L.P. (ECF #1742)

6  
7 HEARING re Motion to Shorten Notice with Respect to Motion  
8 to Confirm that Payment by the Sackler Families under  
9 Settlement with the United States Department of Justice is  
10 not Prohibited by This Court filed by Gerard Uzzi on behalf  
11 of The Raymond Sackler Family (ECF #1832)

12  
13 HEARING re Motion to Confirm that Payment by the Sackler  
14 Families under Settlement with the United States Department  
15 of Justice is not Prohibited by this Court filed by Gerard  
16 Uzzi on behalf of The Raymond Sackler Family (ECF #1883)

17  
18 HEARING re Statement Regarding and Limited Objection to  
19 Notice by the Sackler Families of Settlement with the United  
20 States Department of Justice and Motion to Confirm that  
21 Payment by the Sackler Families Under Settlement with the  
22 Department of Justice is not Prohibited by this Court  
23 (related document(s)1833) filed by Ira S. Dizengoff on  
24 behalf of The Official Committee of Unsecured Creditors of  
25 Purdue Pharma L.P., et al. (ECF #1856)

1 HEARING re Motion to File Proof of Claim After Claims Bar  
2 Date (Backup document was not filed/Personal Injury Proof of  
3 Claim filed by James Harry Rand (ECF #1664)

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25 Transcribed by: Sonya Ledanski Hyde

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1 P R O C E E D I N G S

2 THE COURT: Good morning. This is Judge Drain.  
3 We're here today exclusively on In Re Purdue Pharma L.P. et  
4 al. This is a completely telephonic hearing. You should  
5 identify yourself, therefore, the first time you speak and  
6 if you're lawyer, you should identify your client. It's  
7 probably a good idea to do so thereafter just to make sure  
8 that the court reporter can put together your voice with  
9 your name.

10 Because this is a telephonic hearing, you should  
11 keep yourself on mute unless you're speaking at the time, of  
12 course, you should unmute yourself. There's one authorized  
13 recording of these hearings. It's being taken by Court  
14 Solutions. They provide a copy to our clerk's office on a  
15 daily basis. If you want to order a transcript, you should  
16 contact the clerk's office to arrange for the preparation of  
17 one.

18 So with that introduction, I'm happy to go down  
19 the agenda for today's hearing which actually now is an  
20 amended agenda that added a couple of matters. So why don't  
21 proceed in that fashion?

22 MR. HUEBNER: Sure. Good morning, Your Honor.  
23 For the record this is Marshall Huebner of Davis Polk and  
24 Wardwell on behalf of the Debtors. Can the Court and others  
25 hear me clearly?

1 THE COURT: Yes.

2 MR. HUEBNER: Terrific. Good Morning, Your Honor.

3 So before we get to the agenda letter, I have  
4 given the Court and the parties updates on material  
5 developments and I think every omnibus hearing that sort of  
6 stay with the case, it's pretty typical in mega Chapter 11  
7 cases. And there has, of course, been a very material  
8 development in these cases since we last were before Your  
9 Honor, which is the company's civil and criminal resolution  
10 with the DOJ.

11 This motion is on for approval on November 17th,  
12 so I will, of course, in no way, shape or form advocate for  
13 the deal today. Today is not that day, but I think it is  
14 appropriate to say just a small number of things by way of  
15 update, especially because this is obviously a case of great  
16 public interest and many media outlets have hopefully  
17 inadvertently misdescribed the settlement reached and the  
18 articles range, frankly, to extremes on both ends.

19 At one point the banner lead headline on CNN said,  
20 the settlement will "close the company," and there are other  
21 articles at the other end saying that it's a mirage of a  
22 deal with no consequences for Purdue. So I'm just going to  
23 lay out --

24 MR. TROOP: Your Honor. Your Honor. I'm sorry,  
25 Mr. Huebner. Your Honor, this is Andrew Troop from the Non-

1 Consenting States at Pillsbury Winthrop.

2 I think where Mr. Huebner started, which is that  
3 he's updated the Court with regard to a material event in  
4 this case, is perfectly fair, but to respond to public  
5 statements made outside of the courtroom with respect to the  
6 mistakes that had been reported in those -- and you didn't  
7 see my air quotes, Your Honor -- mistakes that have been  
8 reported in those media outlets is by definition, we all  
9 would understand it, an effort to set the stage for a  
10 hearing on a motion that's not on today.

11 And at least I for one have not considered at all  
12 that that kind of detail would be reported at this hearing.  
13 Nor, Your Honor -- and therefore I'm not prepared to respond  
14 to it. And I don't think that that's an appropriate  
15 posture.

16 I also don't think it's necessary, Your Honor,  
17 between now and the time of the hearing on the 17th  
18 objections, if any, will be filed, replies will be filed,  
19 and the table will be set for you in connection with that  
20 particular motion.

21 So rather than take time to do that today, I would  
22 ask Mr. Huebner to rest on where he is, and that is he  
23 believes that public reports are inaccurate, I think  
24 implicit in that is that he is telling the public and the  
25 press go read what's on file, and that we move on to the

1 substance of today's hearing.

2 MR. HUEBNER: Okay. Your Honor.

3 MR. TROOP: I apologize for the interruption.

4 THE COURT: Well, it always is -- let me just  
5 break in. It always is good to read what's on file, but I  
6 think really, Mr. Huebner, I think that the record's clear  
7 that that motion is on file for November 17th. If there are  
8 other events in the case that you need to update us on  
9 that's fine, but I'm not sure anything more needs to be said  
10 on the DOJ Purdue Settlement which was announced last week  
11 and where the Debtor's have made the motion for approval  
12 that's on for the 17th.

13 MR. HUEBNER: Your Honor, the truth is, my remarks  
14 actually were briefer than Mr. Troop's interruption, and I  
15 actually was going to be extraordinarily careful to merely  
16 lay out a few facts that I think are of great importance to  
17 the public. And I certainly was not going to refer to  
18 either any statement of any other party or any statements to  
19 the media or anything like that. That was merely explaining  
20 why in a case of great public interest I thought that saying  
21 six facts about the settlement and then moving directly on  
22 to the hearing was important.

23 That said, obviously, it all actually is in the  
24 motion, I think more or less, just there, you know, because  
25 the case has so much public interest and it's on the front

1 page of the paper so frequently because people are getting  
2 things just wrong wrong and it's affecting public discourse,  
3 we thought a few facts would be useful, but obviously I'm  
4 happy to take the Court's direction.

5 I do want the Court to understand though, because,  
6 you know, it is always integrity above all else, that  
7 nothing that -- I have one page or so of notes I would be  
8 going through or will go through based on the Court's  
9 pleasure is any advocacy at all. It is literally 1, 2, 3,  
10 4, 5, 6, just facts, now I'll let us move on.

11 So according to you just, Your Honor, tell me what  
12 you would prefer. I'm delighted to stick to that very  
13 tightly and carefully thought out sort of set of things that  
14 I think would be useful or I'm happy to move on.

15 THE COURT: Okay. Well, I would prefer, I guess,  
16 Mr. Huebner, that reporters that are following this story I  
17 assume will do their job, and if they want to verify what  
18 they previously reported or want to report on this further  
19 they'll go to the source which is the underlying  
20 documentation. And we have to rely on them to do that. So,  
21 you know, the ones that do that, I assume people will read  
22 more of than the ones don't at least eventually. And why  
23 don't we leave it at that?

24 MR. HUEBNER: Sure. Happy to do so, Your Honor.  
25 So then let me move on to the first motion on for today,

1 which is the key employee incentive motion.

2 As Your Honor, of course, remembers, the vast  
3 majority of this motion has been consensually resolved at  
4 the prior hearing, and we adjourned the motion with respect  
5 to the insiders. I think our filing of a few days ago makes  
6 clear we are in a very good place for today on those.

7 The original motion sought approval as to the  
8 insiders for a KEIP, a key employee retention program that  
9 was actually was going to replace both of the historical AIP  
10 and the historical LTIP programs that constituted, in fact,  
11 decades' long, annual incentive programs for any of the  
12 insiders.

13 Between the filing of that motion and this  
14 hearing, two of those eight insiders actually resigned from  
15 the company, getting us down to six. Of the remaining six,  
16 the Debtors are still in dialog with the creditor  
17 constituencies as to the CEO and CFO, but have reached  
18 agreement, which is up for today, on the other four.

19 With respect to the other four, one quick  
20 housekeeping point, which will sound very familiar because  
21 we did a similar thing at the last hearing, we've confirmed  
22 with the creditor stakeholders that the Debtor's three  
23 supporting declarations, one from John Lowne, and two from  
24 Josephine Gartrell, one of which was filed on Monday and the  
25 prior one was admitted into evidence at the last hearing on

1 September 30th, will be likewise admitted into evidence or I  
2 guess this may be a continuation of a hearing, so maybe the  
3 last two already are in evidence and then only the new one  
4 needs to come in, and so I would like to move those  
5 admissions, but then, just like last time, it is completely  
6 understood and agreed that while nobody obviously has any  
7 interest in cross-examining the witnesses today, and today  
8 it's fully consensual, the admission and having those  
9 declarations serve as evidence for today's order is without  
10 any prejudice of any kind to any objector's rights to cross-  
11 examine them or otherwise should we have a contested hearing  
12 on the two remaining insiders next month.

13 So, Your Honor, I think that was agreed to  
14 everybody and I hope and trust that since it's the same  
15 thing we did at the last hearing, that that is acceptable to  
16 the Court.

17 THE COURT: Okay. Yes, it is acceptable, and I  
18 have read Ms. Gartrell's October 26th, 2020 supplemental  
19 declaration and don't have questions for her on it. So I  
20 will have it admitted as a supplement to her prior  
21 declaration and as part of her direct testimony in  
22 connection with the remaining portion of the Debtor's  
23 KEIP/KERP motion.

24 MR. HUEBNER: Terrific. Thank you, Your Honor.  
25 With respect to the resolution that was reached, as we laid



1 out in our supplemental statement, although the original  
2 proposal (indiscernible) the KEIP motion already reflected a  
3 reduction to the amount that would have been paid under the  
4 AIP and LTIPs, further reductions were agreed to as set  
5 forth in the supplemental statement of both financial  
6 reductions, date changes and the like that were requested by  
7 and negotiated successfully with the creditors.

8 As I hope the Court and all parties know well by  
9 now, we try to listen to the views of all parties and to  
10 adjust and respond and resolve. But candidly, we listen to  
11 the views of the Court even a little bit more than we listen  
12 to the views of everyone else.

13 So as Your Honor noted at the last hearing you,  
14 "wanted to know about the industry standard," "whether the  
15 incentives are properly targeted," and noted that it would,  
16 "benefit from the focus on the market of the Debtor's  
17 competitors."

18 Of course it was not lost on Your Honor I'm sure,  
19 that just a couple of paragraphs later in the supplemental  
20 statement, you'll see that in essence the deal, at least  
21 with the UCC the Ad Hoc Committee, the Non-Consenting States  
22 and the MSGE and to which the U.S. Trustee and the Ad Hoc  
23 Committee on Accountability, agreed not to press their  
24 objection further moves the annual compensation for the four  
25 relevant insiders for today to the midpoint of the 50th and

1 75th percentiles of the Willis Towers Watson Company and  
2 Market Data for (TVC?), except for the general counsel who  
3 has frankly been acknowledged by everybody to be a special  
4 situation given Purdue's circumstances.

5 So this was laid out in paragraphs 10 and 11 of  
6 our supplemental statement, which was previewed and actually  
7 edited by both the UCC and the Non-Consenting State Group  
8 before we filed it.

9 It also aligns with the sworn evidence and  
10 testimony presented both last year and this year and, of  
11 course, with the original approach in our motion and  
12 declarations. And again, to be clear with Your Honor's  
13 September 30th request, we think we had already, in fact,  
14 taken that exact approach and the original sort of comps and  
15 the like were, you know, the Debtor's competitors and  
16 looking at the Pharma market to the best of Willis Powers'  
17 expert ability, but we sort of double downed on that in the  
18 final lap and in the resolution.

19 So given that that is uncontested, I don't want to  
20 burden the docket or the expense of this case with anything  
21 more about it. We are grateful because we know that these  
22 are not simple issues, and that many parties with widely  
23 divergent views on a variety of topics worked very  
24 productively with us to get this done. And we will continue  
25 to work to hopefully resolve or at least substantially

1 narrow the very few remaining issues on 2020 compensation in  
2 advance of the November 17th hearing where anything that is  
3 left will be addressed.

4 So unless the Court has any questions, it's a  
5 fully consensual order negotiated both at the form and  
6 substance and we ask that it be entered.

7 THE COURT: Okay. Does anyone have anything  
8 further to say on this matter as currently sought by the  
9 Debtors on agreement with the former objectors and those who  
10 had reserved their rights?

11 Okay. I had previously granted a portion of the  
12 Debtor's motion with respect to the KERP and KEIP proposed  
13 by them and heard last month . What was reserved was the  
14 portion of the motion that sought approval of a KEIP, K-E-I-  
15 P for eight senior executives under Section 503(c) of the  
16 Bankruptcy Code and 363(b) to the extent that it is  
17 incorporated in Section 503(c) (3) .

18 The motion is currently unopposed as to the four  
19 executives who are covered in respect of the release sought  
20 by the Debtors today. Two of the executives who had  
21 originally been reserved on have since resigned their  
22 positions, and two are still under discussion and will be  
23 heard -- or the motions for request for relief will be heard  
24 at a future date.

25 The law in this area is relatively clear. The

1 Congress, in Section 503(c)(1), effectively barred transfers  
2 to or obligations incurred for the benefit of an insider of  
3 the Debtor for the purpose of inducing such person to remain  
4 with the Debtor's business.

5 The courts have long recognized that all  
6 compensation, to some extent, causes a person to remain in  
7 their employment. Obviously, if you're not compensated at  
8 all or if you're undercompensated, you tend to want to look  
9 for other employment that will compensate you or will  
10 compensate you at market or at least consider it.

11 So courts have placed a qualifier, which isn't  
12 specifically in the statute, although it could be certainly  
13 implicit in the word "purpose" of primary, see In Re Global  
14 Home Products, LLC; In Re: Nellson Nutraceutical, Inc. 369  
15 B.R. 787, (Bankr. D.Del. 2007). I'm sorry, citing In Re  
16 Nellson v. Nutraceutical, Inc.

17 The court also rec --, I mean, the Bankruptcy Code  
18 also recognizes in Section 503(c)(3) that other transfers or  
19 obligations that are outside the ordinary course of business  
20 will not be approved if they are not justified by the facts  
21 and circumstances of the case.

22 The courts have generally, including in the Second  
23 Circuit, said that the "justified by the facts and  
24 circumstances of the case" language from the statute sets a  
25 standard really no different than the standard under Section

1 363(b) of the Bankruptcy Code, i.e. is the proposed  
2 compensation program a proper exercise of business judgment  
3 in light of the facts and circumstances of the case. See In  
4 Re Velo Holdings, Inc. 472 B.R. 201-212, (Bankr. S.D.N.Y.  
5 2012) and In Re Dana Corp 358 B.R. 567, 576-77 (Bankr.  
6 S.D.N.Y 2006).

7 This is not the corporate law business judgment  
8 standard where the court is deferential to the Board's  
9 judgment unless a conflict of interest or lack of due care  
10 is shown. Rather ultimately, it's the bankruptcy court's  
11 judgment informed by the position taken by the Debtor and  
12 any objections.

13 In the absence of objections, after due notice,  
14 one assumes though that the parties having been properly  
15 informed agree with the Debtor's business judgment and the  
16 court's review, although not eliminated, takes that into  
17 account.

18 In the Dana case that I've cited, Judge Lifland  
19 observed that there were a number of factors the court  
20 should consider in evaluating the business judgment of  
21 making such a decision. Namely is there a reasonable  
22 relationship between the plan proposed and the results be  
23 obtained by either the plan calculated to achieve the  
24 desired performance, is the cost of the plan reasonable in  
25 the context of Debtor's assets, liabilities and earning

1 potential? Is the scope of a plan fair and reasonable, i.e.  
2 who does it apply to and does it unfairly discriminate?  
3 This often comes up in the context of cases where a plan is  
4 proposed at the same time that the Debtor is either cutting  
5 jobs or cutting compensation or seeking to modify collective  
6 bargaining agreements, which isn't the case here.

7 Another factor is, is the plan or proposal  
8 consistent with industry standards. Related to that is what  
9 were the due diligent efforts of the Debtor in investigating  
10 a need for a plan, and what is generally applicable in the  
11 particular industry, and when did the Debtor received  
12 independent counsel in performing that due diligence, and in  
13 creating and authorizing the compensation program?

14 Often these cases focus on the incentive element  
15 of the plan and whether the incentives proposed are, in  
16 fact, truly difficult to reach, or at least incentivize  
17 employees to work more than beyond the normal job that they  
18 would be expected to do, but it's important to note that  
19 Congress did not limit Section 503(c)(3) compensation to  
20 incentive plans.

21 And I believe that it is important to focus as  
22 much, if not more, on whether the plan is consistent with,  
23 subject to the circumstances of the particular case,  
24 industry specific standards as opposed to bankruptcy case  
25 specific standards.

1           And I did have questions about that in connection  
2           with the original proposal. And I think the parties have  
3           addressed those questions as well as performing their own  
4           due diligence on how the proposed compensation fits in the  
5           context of this particular case.

6           Having reviewed the declarations by Ms. Gartrell,  
7           including the supplemental declaration, it appears to me  
8           that the revised proposal does place these executives in the  
9           middle of industry compensation for people performing jobs  
10          like theirs, with one exception, which I'll come back to.

11          What had not been addressed previously, and I  
12          think was important to address here, is that often in non-  
13          bankrupt companies, a significant portion of executive's  
14          compensation comes in the form of stock, which has both its  
15          risks and its rewards. Stock can appreciate considerably in  
16          value and also can turn out to diminish in value or even be  
17          worthless.

18          In bankruptcy cases because the stock itself often  
19          is not appreciating at all or may, in fact, be worthless,  
20          compensation is adjusted to be in the form of cash. That  
21          provides a certain recovery, but also limits the upside  
22          beyond the certain recovery which industry-wide stock awards  
23          provide.

24          I think Ms. Gartrell addresses this dynamic  
25          appropriately in her supplemental declaration. I'm noting

1 that, of course, there's no upside here, but also reflecting  
2 that the discounts agreed to are taking into account the  
3 added value of having a certain return in the form of cash.  
4 Where the truly incentive nature of the compensation is  
5 harder to peg, i.e., there's a dispute over whether the  
6 targets are hard to reach or not. I think that type of  
7 analysis is very important in these types of motions, trying  
8 to put the program in the context of industry standards,  
9 taking into account the fact that the form of consideration,  
10 which is cash, is different than is usually a significant  
11 element of the consideration in the industry as a whole,  
12 which is stock.

13 I think the Debtors and the other parties have  
14 done that here, and therefore, I find that the motion  
15 satisfies 503(c)(3) with regard to the three executives who  
16 are at the midpoint or roughly at the midpoint as detailed  
17 by Ms. Gartrell's supplemental declaration.

18 With regard to the Debtor's general counsel that  
19 person was brought on fairly late in the day to help the  
20 Debtors manage the enormous amount of litigation pending  
21 against them pre-bankruptcy as well as now in the bankruptcy  
22 case. That person's job description it appears clear to me  
23 is not comparable to other general counsel in this industry,  
24 requires more expertise and more work, frankly, and I think  
25 the parties in interest have recognized that as well in not



1 objecting to the general counsel's proposed compensation  
2 package as set forth in the agreed revisions here which is  
3 over market for general counsels generally in this industry,  
4 but reflects the added duties and expertise that a general  
5 counsel has.

6 So I will grant the motion as it applies to these  
7 four people. You can email the agreed form of order to the  
8 Court as noted in the prior hearing. That agreed form of  
9 order has a disgorgement provision in it beyond the normal  
10 disgorgement provision for leaving other than being  
11 terminated without cause in the periods prescribed which  
12 covers the possibility of the employee being later found  
13 liable for criminal or other conduct as laid out in the  
14 order which is appropriate to highlight here.

15 So Mr. Huebner, you can email that order to  
16 chambers.

17 MR. HUEBNER: Thank you, Your Honor. And, Your  
18 Honor, thank you in particular for the last point, which I  
19 probably should have affirmatively noted. Any compensation  
20 order that we serve up to this Court is going to have that  
21 language in it. That language, as the Court surely  
22 remembers, was negotiated extensively last year with the  
23 core parties. I think the Court itself had some reflections  
24 on it. It was based off of language that had been agreed to  
25 and we think it is entirely appropriate. And obviously if

1 that standard is triggered the consequences is provided in  
2 the order for behavior to rise to that level will have the  
3 consequences that they do. So thank you.

4 Your Honor, as to the Debtors I would note that,  
5 yet again, we have brought you an uncontested hearing,  
6 despite the extreme complexity to say the least of this  
7 case. The other matter of the Debtors on for today is that  
8 of Mr. Rand, who Court may remember from the prior hearing  
9 who patiently listened to all of us drone on forever until  
10 he finally got a chance to speak.

11 Let me turn that over to Mr. McClammy and then  
12 I'll take the podium back for just a minute, and then I  
13 think turn it over, I think, to Mr. Uzzi, since the only  
14 other motion on for today is going to be his.

15 THE COURT: Okay. Very well. And just for the --  
16 again, for the record what we're going to deal with now then  
17 is the motion by James Rand to toll or toll his deadline to  
18 file a proof of claim in this case beyond the extended  
19 filing deadline of July 30, 2020. He had asked to appear  
20 even though he's incarcerated, and that creates some  
21 difficulty. He was going to arrange for him to appear. Mr.  
22 Rand are you on the phone?

23 Okay. I don't see him on the hearing dashboard.  
24 I know that we alerted him and Court Solutions last week and  
25 this week and yesterday about the number to call and to hook

1 him in, but I don't see him here. But the agenda says that  
2 this motion is uncontested, and there has been no objection,  
3 so why don't I hear from Debtor's counsel?

4 MR. MCCLAMMY: Thank you, Your Honor. Good  
5 morning. This is Jim McClammy for the Debtors.

6 We have been in touch with the UCC and others  
7 regarding this motion and it was agreed to reach out to to  
8 Mr. Rand to see if we could, you know, enter a stipulation  
9 essentially resolving the motion by allowing for the filing  
10 late, but reserving all other rights with respect to the  
11 claim.

12 We've made a number of attempts to contact Mr.  
13 Rand and his counselor, but, as Your Honor notes, there are  
14 some difficulties given his incarceration and have not been  
15 able to reach him directly.

16 With Your Honor's permission, I think perhaps the  
17 best way to proceed is we've sent the proposed stipulation  
18 to Mr. Rand and his counselor. We hope that they will be  
19 able to review that and sign off, hopefully in short order  
20 at which point, if the Court is amenable, we could this  
21 perhaps by notice of presentment and have it resolved that  
22 way.

23 THE COURT: Well, can I ask you a couple of  
24 questions first? Has he filed a proof of claim?

25 MR. MCCLAMMY: Yes, so there is a proof of claim

1 that has been filed.

2 THE COURT: Okay. I thought he was proceeding pro  
3 se. Certainly, what he filed was pro se; does he have a  
4 lawyer?

5 MR. MCCLAMMY: We're not aware of an attorney. I  
6 believe he may have mentioned an attorney on his -- on the  
7 call, but he has a counselor at the penitentiary who also, I  
8 guess, assists with getting information to him.

9 THE COURT: Well, I mean, look, if the Debtors,s  
10 having consulted with the committee and others, and there  
11 being no objection to the motion, maybe the better way to  
12 deal with this is just for you to submit an order granting  
13 the motion, deeming the claim timely filed, but reserving  
14 all other potential defenses or objections to the claim.

15 MR. MCCLAMMY: We can do that, Your Honor.

16 THE COURT: Okay. And then you can just mail that  
17 to him. I mean, the rationale for that is that, unlike I'm  
18 assuming the vast majority of people and editors that filed  
19 claims in this case, Mr. Rand states that he was  
20 incarcerated and unable to meet the filing deadline because  
21 of quarantine in his prison.

22 MR. MCCLAMMY: That's exactly right.

23 THE COURT: Rather than spend the money to further  
24 investigate that and to have an evidentiary hearing on  
25 whether he would have been able to mail a claim in on a

1 timely basis, the Debtor's in consultation with the  
2 committee are prepared to deem it timely filed. Subject, of  
3 course, to all other potential objections, which is, I  
4 believe a reasonable resolution here.

5 Although it shouldn't be taken as a open door to  
6 other claimants that they will have their motions to be in a  
7 claim timely filed, notwithstanding it was filed after the  
8 bar date to be granted or agreed to.

9 So I'll look for that order and you can copy him  
10 on the -- I think he has access to a computer at some point.  
11 You can copy him on the email.

12 MR. MCCLAMMY: We'll do, Your Honor. Thank you  
13 very much.

14 THE COURT: Okay. Thank you.

15 MR. MCCLAMMY: With that, I'm turning it back over  
16 to Mr. Huebner.

17 THE COURT: Okay.

18 MR. HUEBNER: So Your Honor the other issue, you  
19 know, originally, we were headed for two, you know,  
20 potentially non-trivial disagreements of today's hearing on  
21 the Debtors side. One obviously is the KEIP, which we just  
22 finished discussing was resolved. The other are the  
23 committee's motions with respect to privileged or, as they  
24 say, purportedly privileged documents and our motion for a  
25 protective order.

1           As Your Honor knows, that has now been determined  
2     at the committee's request pursuant to a form of stipulation  
3     that various parties have agreed to, and so, you know, just  
4     so the Court knows and the parties know, like on all issues,  
5     we are working on a potential resolution for that. I don't  
6     know if we'll get there. I won't say more than that, but we  
7     certainly understand leaving (indiscernible) to merits of  
8     either motion, we do understand that the views and the  
9     merits of various parties and their requests and desires to  
10    see documents.

11           In that regard, Your Honor, there is one small  
12    thing I do want to say, which is nothing about that fight  
13    has any connection of any kind to the representation and  
14    commitments and promises that the Debtor's have repeatedly  
15    made to a post-emergence repository of documents. And I  
16    just, I do want everyone to understand that and  
17    (indiscernible). We made those promises. I actually went  
18    back and checked late last night, on October 11, 2019,  
19    November 6th, 2019, June 3rd, 2020, and July 23rd, 2020, and  
20    I do it again today. There will be a large, meaningful,  
21    fully public repository of documents in this case when it is  
22    over as these companies emerge. So none of that is on for  
23    today, but I don't want there to be confusion that that goal  
24    that we have promised the world and this Court for over a  
25    year is in anyway affected by the Committee's motions or the

1 Debtor's cross motion for a protective order.

2 With that, Your Honor, let me turn the podium to  
3 Mr. Uzzi, since the only contested motion is his.

4 THE COURT: Well, let me say one more thing on  
5 this. I think, I mean, I sent the stipulation in that  
6 resolved the adjournment of the motion. I assume it's been  
7 entered. And importantly that stipulation provided that the  
8 discovery is still ongoing. There's no adjournment of the  
9 discovery itself just of the motion with respect to the  
10 privilege issues.

11 And the parties have also represented to me, and I  
12 fully believe them of course having dealt with them for over  
13 a year, that alongside of that process they're also fully  
14 committed to the ongoing mediation. And those were really  
15 the conditions I think that are important conditions to the  
16 adjournment. And I do hope that the parties continue to  
17 discuss the issues raised by the motion, but if not fully  
18 resolved, of course we'll hear it on the adjourn date.

19 So why don't we then turn to the last matter on  
20 today's calendar which is really a matter in two parts. The  
21 first is the motion by the -- well, I'll just refer to it  
22 generically as the Sackler's, for an order granting  
23 shortened notice of the consideration of the second part,  
24 which is the Sackler's motion "to confirm the payment by the  
25 Sackler family under their settlement with the DOJ or with

1 the United States Department of Justice is not prohibited by  
2 this Court's prior orders."

3 MR. UZZI: Yes, Your Honor. Oh, sorry.

4 THE COURT: I'm sorry. I'm not sure who's  
5 speaking for the Sacklers, but you can go ahead with those.

6 MR. UZZI: Yes, Your Honor. It's Gerard Uzzi of  
7 Milbank. Can you hear me okay?

8 THE COURT: Yes, I can hear you fine. Thank you.

9 Mr. UZZI: All right. Thank you, Your Honor. As  
10 you know, we represent the Raymond Sackler family, also  
11 known as the Side B. Debevoise represents the Mortimer  
12 Sackler family also known as Side A. I'm going to speak  
13 first, Your Honor. Together the two sides of the family, we  
14 refer to them as the Sackler families for the purpose of the  
15 motion, you know, I will present the motion, Your Honor, on  
16 behalf of both Sackler families. And so my remarks will be  
17 made in that context unless I, you know, state otherwise.

18 I'd first like to thank Your Honor for granting us  
19 the opportunity to present the motion to shorten. To put it  
20 in its proper context, I would like to address at least  
21 preliminarily some of what we're trying to address in the  
22 underlying motion that is seeking this Court's confirmation  
23 that we are allowed to make the payments as stated to the  
24 DOJ. And to do so I think I need to not only address what  
25 the motion is asking for, but what it's not asking for.



1 I start, Your Honor, with why we are even here  
2 today. And we're here today because of what we believe is  
3 good news, at least good news in the context of moving these  
4 cases forward and moving these cases forward is something  
5 that all major parties in interest have expressed a desire  
6 to do.

7 One of the issues that not only the Sacklers have  
8 identified as a gating issue in these cases, but all the  
9 material parties have identified as a gating issue in these  
10 cases is, you know, where do things stand with the DOJ?  
11 Well, the Sackler families have been able to reach an  
12 agreement with the DOJ. That agreement was made public by  
13 the DOJ and it's otherwise attached to our underlying  
14 motion, which is Docket Number 1833.

15 Pursuant to that agreement the Sackler families  
16 are required to make a payment in the aggregate of \$225  
17 million to the DOJ.

18 So what we are here today, Your Honor, on is a  
19 very narrow request of this Court to confirm that no prior  
20 order of this Court prohibits that payment. What we're not  
21 asking to do, Your Honor, is we're not asking this Court to  
22 approve the terms of the settlement with the DOJ or to say  
23 from the Sackler's perspective that this is a good or a fair  
24 settlement, this is not a 9019 motion.

25 We are mindful, however, Your Honor, of this

1 Court's injunction, comments that the court has made and  
2 others with respect to the injunction and, most importantly,  
3 what we refer to as the anti-secretion language that has  
4 been incorporated in the injunction. And that anti-  
5 secretion language provides in pertinent part that during  
6 the injunction and for a brief period afterwards  
7 (indiscernible) that the Sacklers will not take any action  
8 with respect to any material amount of their property that  
9 would have the material affect of frustrating enforcement of  
10 any potential judgment of this Court.

11 So again, and I'll be a little bit of a broken  
12 record on this, Your Honor, we're here on that narrow issue  
13 of just simply whether that anti-secretion language  
14 prohibits our payment to the DOJ. We're not asking for a  
15 broader interpretation of that language, just simply whether  
16 the payments are prohibited. And on the chance that the  
17 Court does believe that the payments are prohibited by that  
18 language, then we ask the Court to grant us relief from that  
19 language.

20 We filed our motion to shorten and the underlying  
21 motion at about 1:30 a.m. on October 22nd. In accordance  
22 with the case management order, prior to filing the motion  
23 to shorten we sought consent of the Debtor's and the UCC.  
24 And after the motion to shorten was filed, we sought the  
25 consent of the Consenting Ad Hoc Group and and the Non-

1 Consenting Ad Hoc Group. The Debtors, the UCC and the  
2 Consenting Ad Hoc Group have consented to the motion being  
3 heard on short notice. The Non-Consenting Group has taken  
4 no position on the motion to shorten.

5 We have received one objection to the motion to  
6 shorten and that's from the Ad Hoc Committee on  
7 Accountability and that's Docket Number 1852.

8 As far as the motion to shorten goes, Your Honor,  
9 first I think it's fairly indisputable that this is a  
10 significant moment in these cases. And we therefore thought  
11 it appropriate to bring this settlement agreement or to  
12 bring this fact, I should say, before the Court as soon as  
13 we could. And in normal cases, perhaps that wouldn't be as  
14 necessary as we felt it was here, but we are mindful that  
15 this is not a normal case, and we are mindful, Your Honor,  
16 of the statements that are made outside of this Court that  
17 do impact the positions that are taken in this Court. And  
18 we're particularly mindful of the statements regarding the  
19 Sackler's efforts, motivations, and culpability with respect  
20 to anything that they do.

21 And we were concerned that if we simply filed this  
22 and let our motion linger to the next omnibus hearing, which  
23 isn't until November 17th, without any commentary from us to  
24 you, Your Honor, and your potential response, if you have  
25 any, that that lingering could be counterproductive and

1 harmful to the process. So we filed it first just simply as  
2 a notice and the opportunity to have a conversation with  
3 Your Honor.

4 But as far as the merits of shortening notice,  
5 Your Honor, we are in mediation and going into the  
6 mediation, the Court is well aware of the conversations we  
7 had as to whether it makes sense to start now. And one of  
8 the debates that people have had is, well, we need to know  
9 where the DOJ is and even the DOJ's observance of mediation,  
10 you know, was a subject of discussion.

11 And so what we do -- and by we, I mean, what the  
12 Sackler families do with the DOJ -- is a significant point  
13 in the mediation, that's beyond dispute. If it turns out  
14 that we're not allowed to make this payment because of the  
15 anti-secretion language, we should all know that sooner  
16 rather than later.

17 And, you know, as far as conduct in the mediation  
18 and I won't -- I will not comment, of course, Your Honor, on  
19 where the mediation stands, but one thing we're mindful of  
20 too, is positioning in mediation for other purposes. That  
21 is, you know, holding up our ability to consummate this if  
22 leverage was sought or determined to provide leverage. I  
23 want to be clear, nobody has done that, Your Honor. But we  
24 didn't know whether that would be a possibility before we  
25 filed the motion to shorten and we don't know if that could

1 possibly happen if we don't have this determined today.

2 I think it's important, Your Honor with respect to  
3 the motion to shorten, that the substantive relief, the  
4 request, while of utmost importance, and I'm not going to  
5 diminish the importance, is actually very narrow. And so  
6 therefore, we believe that this something that can properly  
7 be considered on shortened notice.

8 Finally, Your Honor we do note that the next  
9 omnibus hearing is quite a crowded docket, therefore, for  
10 efficiency purposes, we think it also makes sense to hear  
11 the motion today. Only the Ad Hoc Committee for  
12 Accountability objects to the motion to shorten. Their  
13 objection, as we read it, is mostly an attack on the  
14 Sacklers and it's and attack on the settlement. And it  
15 doesn't really address why more time is needed to consider  
16 whether the preliminary injunction prevents the payment.

17 And, Your Honor, we're not surprised by the  
18 attacks, we've heard them before, and I'm sure we'll hear  
19 them again. But if you look at the attacks, what they seem  
20 to be saying is that this isn't a good settlement because it  
21 doesn't punish the Sacklers enough or say it another way,  
22 the Sacklers should be paying even more.

23 Well, I understand that emotional position, Your  
24 Honor, but if we look at this in the context of what we're  
25 trying to accomplish in this case, that is actually counter

1 to the interest of the unsecured creditors. It's not in the  
2 best interest for the unsecured creditors here to the extent  
3 they have valid claims to say, well, the DOJ should take  
4 even more so that there's less available ultimately to the  
5 unsecured creditors.

6 As far as the actual objection to shorten notice,  
7 they state that we have shown no cause, but Your Honor, I  
8 submit we have. The mediation here is material, and I don't  
9 think that can be on dispute. And they actually don't say  
10 we're wrong about that. They just say, "that doesn't seem  
11 right," and that's on page 10 of their brief.

12 Well, if we've established cause, as we submit we  
13 have, their mere speculation to the contrary is not enough  
14 to overcome that cause. I think most instructively, Your  
15 Honor, however, is that no other party has objected to the  
16 shortening of notice, including those parties who have been  
17 working very hard in the mediation, in the discovery and,  
18 you know, trying to move this case forward.

19 Your Honor, I do have quite a bit more to say on  
20 the underlying motion if we get to it, but that's all I have  
21 with respect to the motion to shorten. I'm, of course,  
22 happy to answer any questions you may have.

23 THE COURT: Okay. I think most of my questions go  
24 to the merits as opposed to the timing. So I'm happy to  
25 hear from the -- I'm assuming it's Mr. Quinn on behalf of

1 the objectives.

2 MR. QUINN: Good morning, Your Honor. It's  
3 Michael Quinn of Eisenberg and Baum for the Ad Hoc Committee  
4 of Accountability.

5 The committee on accountability objects to the  
6 motion to shorten notice. As you know, Your Honor, the  
7 presumptive practice in this district requires 14-days  
8 notice prior to action on a matter. While that period can  
9 be shortened for cause, that cause must be good. Here, the  
10 cause the Sacklers offer is not sufficient and the reasons  
11 to follow the regular rules are stronger.

12 It sounds like the Sackler's main argument for  
13 expedited treatment seems to be that it will assist the  
14 mediation. That argument is not so compelling because  
15 Purdue's motion and their DOJ settlements will be heard on a  
16 regular schedule. The mediation can accommodate hearing the  
17 Sackler's motion on the regular schedule as well.

18 What's even more important here are the reasons to  
19 apply the regular rule. This case matters to a lot of  
20 people. There are significant questions about the Sackler's  
21 motion, including questions about their finances, their  
22 criminal liability, and how this motion fits into the larger  
23 plan. It would be wise to allow for the regular period to  
24 address these issues.

25 Your Honor, I just have one last point. News of

1 the settlement broke last week and it hit a lot of people  
2 very hard. Over the weekend, my client, Barbara, messaged  
3 me, "Had a dream about Patrick last night for the first time  
4 in a very long time. In the dream he was 12 years old.  
5 Bizarre, but what's been happening with Purdue and the  
6 Sacklers is so bizarre that I'm not so surprised. Don't  
7 like dreaming about him as I always wake up feeling sad even  
8 if the dream was happy."

9 Your Honor, we ask the Court follow the regular  
10 rules regarding this motion. Thank you.

11 THE COURT: Okay. Well, the objection, as you  
12 noted Mr. Quinn, does raise or asked questions related to  
13 the DOJ settlements. I think we should answer a couple as  
14 part of this first part of the hearing.

15 The first is, it appears quite clear to me from  
16 the settlement itself, a copy of which is attached to the  
17 underlying motion and is before the signature page is -- I'm  
18 sorry -- let me just turn to it -- is 13 pages long, double  
19 spaced -- that -- as stated in paragraph 8, "The following  
20 claims of the United States are specifically reserved and  
21 not relieved and among those claims is any criminal  
22 liability," that's a quote.

23 So I think that question is actually answered by  
24 the side of settlement and probably easily answered within  
25 the five days of notice of this underlying motion.



1 I also think it is clear, although maybe not as  
2 clear as that point, that the motion before me, the  
3 underlying motion, is not a motion for approval of the DOJ  
4 settlement. That is a determination that the Department of  
5 Justice acting on behalf of the United States made on behalf  
6 of the United States and the Sacklers made between and among  
7 themselves to resolve the claims of the United States  
8 against them for civil liability as set forth in the  
9 settlement.

10 So again, I am not being asked, nor could I, to  
11 approve in an order that settlement. It's just simply  
12 outside the scope of my jurisdiction or what I am empowered  
13 to do.

14 MR. QUINN: Your Honor, I appreciate that.

15 THE COURT: So -- well, I'm trying to -- this is  
16 one of the problems with the telephonic hearing. You can't  
17 see that I'm just laying this out. I'm not saying this to  
18 criticize you. I'm pointing out, in the context of this  
19 motion to shorten, that I think those two points, which  
20 might well be points that one would raise in respect to a  
21 motion to shorten, are actually quite clear and therefore  
22 don't need more time to elucidate.

23 There are other issues that I want to turn to now  
24 that I've considered as to whether there needs to be more  
25 time to be developed or for development so that those issues

1 with respect to the underlying motion could be properly  
2 addressed or whether they could be addressed today.

3 And I think that goes back to what the underlying  
4 motion seeks. And at the risk of repeating of what Mr. Uzzi  
5 stated, I will say that it appears to me clear that the  
6 motion, particularly as clarified by the proposed  
7 modifications to the order, seeks either a determination  
8 that paragraph 13 of the amended and restated case  
9 stipulation among the official committee of unsecured  
10 creditors and certain related parties, which people have  
11 referred as to the K stipulation, which I so ordered on  
12 November 20, 2019 largely in the context of a requested  
13 further extension of the preliminary injunction, applies to  
14 preclude the settlement payment to the DOJ by the Sackler  
15 family.

16 Paragraph 13 says, prior to the date, that is 30  
17 days after the expiration of the stay period, i.e. the  
18 preliminary injunction, no covered party shall take any  
19 action with respect to any material amount of his, her, or  
20 its property that is located inside or outside of the United  
21 States with the intent or material effect of frustrating  
22 enforcement of any potential judgment of this Court and  
23 these Chapter 11 cases or any other actions pending against  
24 them in any other court or jurisdiction.

25 That paragraph, as well as the rest of the case

1 stipulation, is incorporated into the preliminary  
2 injunction, so I so ordered the case stipulation. I also  
3 have incorporated it into the preliminary injunction. So  
4 that's an order and the Sackler family are seeking a  
5 determination as to whether either their proposed payment  
6 violates that order or for relief from that provision of the  
7 order paragraph 13 to make the payment.

8 The concerns that that raises are primarily  
9 concerns addressed by that paragraph which, Mr. Quinn, you  
10 have raised also in your objection, which is whether the  
11 purpose of that paragraph is contravened by the proposed  
12 payment.

13 The purpose of that paragraph is primarily, if not  
14 exclusively, to protect the Debtor's estates and, to the  
15 extent they have claims against the Sacklers, third-parties,  
16 from dissipation of the Sackler's assets before or, you  
17 know, during this period of the injunction, before any  
18 judgment against them is obtained and can be enforced, i.e.,  
19 to protect potential creditors of the Sacklers from the  
20 effects of the delay of litigation and enforcement, and  
21 their transfer during that period of assets that would  
22 otherwise go to pay a judgment.

23 There's a lot subsumed in that, which this  
24 provision simply sidesteps by saying they won't do it.  
25 Although it does use, importantly, some qualifying terms

1 either intent or material effect of frustrating enforcement.

2 What that provision sidesteps is whether and when  
3 there would be judgments against the Sacklers and if so,  
4 would the proposed transfer actually materially affect the  
5 collectability of such a judgment.

6 Now, the parties in interest in this case, who  
7 were very well represented and well-funded, namely creditors  
8 committee and the Ad Hoc group of Supporting Parties and the  
9 Non-Consenting Group, as part of that same case stipulation  
10 obtained the covered parties, which would include the  
11 Sackler family's commitment to cooperate in good faith, to  
12 among other things, provide financial information. not only  
13 about their past finances, which would be related to  
14 potential avoidance actions, but current finances.

15 So it would appear to me, because I've not heard  
16 complaints about this aspect of the stipulation not being  
17 complied with, that there are key parties in interest who  
18 have a pretty good idea at least as to whether in the light  
19 of this case a \$225 million payment really would run  
20 contrary to the intent of that paragraph 13.

21 They have chosen not to address the timing here,  
22 although the ad hoc group of non-consenting states has  
23 raised a limited objection to the underlying motion. I'm  
24 assuming that's because they believe due diligence now so  
25 that the delay to November doesn't really help that process

1 further to resolve the issue before me on the underlying  
2 motion.

3 So, I think that is the main issue here as to  
4 timing. And frankly, my view is that I would like to  
5 reserve decision on the motion to shorten until I at least  
6 hear the underlying motion and decide whether I need more  
7 facts or not, and whether other parties would need to weigh  
8 in at that point; in which case, I'd adjourn it and that  
9 would certainly provide parties sufficient time under the  
10 bankruptcy rules, beyond five days, that they would have for  
11 today.

12 I think that there is some benefit as the Movant,  
13 the Sacklers, have argued, to the mediation, for me to rule  
14 today. On the other hand, I may be wrong about that. And  
15 all things considered, that would argue for adjourning it,  
16 to get more information.

17 I also should note that, unlike most judges, I  
18 don't consider these types of motions to shorten, or motions  
19 to shorten, generally, on an ex parte basis or without a  
20 hearing. If I believe there is a reasonable argument to be  
21 made, that I should hear it on shortened notice, I will tell  
22 the Movant to schedule the motion to hear on shortened  
23 notice, to be heard immediately before it, in conjunction  
24 with the underlying motion. At least that gives parties,  
25 like your clients, the opportunity to say, "You're doing

1 this too fast."

2 Originally, when I got this motion, I was  
3 disinclined even to do that, as the Debtors and the State  
4 and the Committee know. But it was made clear to me that  
5 all of those parties were prepared to have this be heard --  
6 the underlying motion, that is -- today. They pointed out  
7 that it was not specifically linked to the Debtors'  
8 settlement motion; which will be heard next month. And so,  
9 I put it on the calendar.

10 And I appreciate your objection and I'm just,  
11 simply, going to keep it open and hear the merits, and then  
12 decide whether we need more information or not. But I think  
13 there's at least enough support, or showing of cause, for me  
14 to consider the merits, and then decide whether we need more  
15 time or not.

16 So, why don't we move to the hearing on the  
17 merits, which again, Mr. Uzzi gave a preview of, and which I  
18 think I gave a preview of. And then we'll see whether we  
19 need more time or not, in that context.

20 MR. UZZI: Yes, Your Honor, Gerard Uzzi again, on  
21 behalf of the Sackler families. Your Honor, you laid out  
22 precisely the relief that we're seeking, so I won't burden  
23 the record with repeating that. I do think that where I'd  
24 like to start is just to reflect, for a moment, on why the  
25 anti-secretion language was put in both the stipulation and

1 then incorporated into the preliminary injunction in the  
2 first place.

3 As you may recall, Your Honor, at that time, there  
4 was a significant amount of noise about the Sacklers  
5 attempting to secrete assets, and some concerns expressed  
6 that the injunction would give us the opportunity to further  
7 secrete our assets, and that would be, obviously, improper.  
8 And Your Honor, we weren't trying -- the Sackler families  
9 weren't trying to secrete their assets; they weren't going  
10 to try to secrete their assets.

11 So, it was fairly sleeves off the vest for us to  
12 be able to say, fine, we'll just agree, somehow, in language  
13 that we're not going to secrete our assets. Hence, the  
14 moniker that we've come up with and we've referred to this  
15 language as the anti-secretion language. And the language  
16 that is in the stipulation and is in the orders, of course,  
17 as Your Honor has represented, and perhaps in reflection,  
18 the language just should have said, "Thou shall not secrete  
19 your assets."

20 But we do have that language there. I do believe,  
21 Your Honor, that at that time, the intention of that  
22 language was to not prevent the Sacklers from using their  
23 assets for legitimate purposes, but was rather intended to  
24 prevent nefarious acts. There was some discussion about  
25 that at the preliminary injunction hearing, Your Honor. And

1 as I stated, there was no intention, there is no intention,  
2 to engage in nefarious acts. So, it was an easy give on our  
3 part.

4 I do, though, understand, Your Honor, that if I'm  
5 confident of my position that this was not to prevent this -  
6 - and I am confident -- it does beg the question somewhat,  
7 of why are we here? Well, first, we are talking about \$225  
8 million, and that is a material sum of money. And as Your  
9 Honor referenced, in reading the anti-secretion language,  
10 there are various qualifiers. There's more than one  
11 material qualifier, and one of the material qualifiers is as  
12 it relates to a material amount of their assets. And I'm  
13 certainly not going to argue in this context, that \$225  
14 million is not a material amount of money.

15 Now, that said, in the context of whether there's  
16 any prejudice to the estate, I think the materiality of this  
17 payment does come into play. But as to whether this sum of  
18 money triggers us to think about the anti-secretion  
19 prevision, I'm certainly not going to suggest that it's not  
20 material.

21 And while I believe that the payment to the DOJ is  
22 unquestionably a legitimate purpose, it does involve the  
23 payment with respect to litigation or threatened litigation.  
24 And obviously, litigation and threatened litigation, even  
25 though the DOJ is not subject to the injunction, is a



1 subject of the injunction. And so, I think, as any good  
2 bankruptcy lawyer, as Your Honor knows, when we're dealing  
3 with these types of issues in similar respects, of the  
4 automatic stay, it is always prudent to seek the Court's  
5 views and to confirm that we are doing the right thing.

6 And so, we're here in that spirit. It's worth  
7 nothing also, Your Honor, we did agree contractually with  
8 the DOJ to seek this confirmation. We further agreed with  
9 the DOJ, that to the extent that the source of funds that  
10 we're using to make the payments were direct or indirect  
11 transfers from Purdue, that we would disclose that fact to  
12 the Court, and the parties in interest. And we have, in  
13 fact, disclosed that fact in our papers, and are disclosing  
14 it now. I think that that is probably the bone of  
15 contention we have with respect to the merits, Your Honor.

16 There is one objection that we received, to the  
17 underlying motion. And that was a joint objection filed by  
18 the UCC and the Non-Consenting States. That's docket number  
19 1856.

20 Now, Your Honor, we're not surprised, we're  
21 disappointed. We're not surprised that they'd take shots at  
22 the Sacklers. They do say quite a few things that I'm not  
23 going to respond to, other than to make clear for the record  
24 that we disagree, particularly with respect to the  
25 characterization of what discovery is purporting to

1 demonstrate.

2 We, obviously, have significantly different views  
3 in that regard, but that's not relevant for today.

4 I do think one thing that is relevant, though, is  
5 that they do take issue with the fact that the Sacklers deny  
6 liability. The Sacklers deny liability. They have been  
7 consistent on that point, and that's not something that has  
8 changed. And that's maybe something that's easy to take a  
9 shot at. How dare they deny liability?

10 But what's not easy to take a shot at, and what's  
11 not referenced, is the other point that the Sackler families  
12 have been consistent on. And that is, that the Sackler  
13 families, notwithstanding that they deny liability, prefer  
14 to try to settle this litigation. And not just settle it,  
15 but settle it in a manner that will fund an abatement plan  
16 and provide resources to at-risk communities and parties in  
17 need. That's what we're trying to do here.

18 And that's a goal that, at least all the parties  
19 have stated, that they desire as well. And I think it's a  
20 laudable goal. And that's why, when we say we believe this  
21 is -- we're coming to the Court with good news, it's good  
22 news because the settlement with the DOJ is a milestone on  
23 that path. And hopefully, if it's confirmed that we can  
24 make this payment, it clears the way for us to get to the  
25 ultimate here sooner -- excuse me, Your Honor -- the end

1 sooner rather than later.

2 Your Honor, in some respects, I think my remarks,  
3 whatever I will make and whatever the remarks of other  
4 counsel will make, is somewhat secondary to the Court's just  
5 inherent views. And this comes down to, or could come down  
6 to, just simply, what was the Court expecting of us, the  
7 Sacklers, when it issued the injunction? And I fully  
8 recognize when I make that statement, Your Honor, that it's  
9 unlikely that the Court had this set of facts in mind. That  
10 is, a settlement with the DOJ in this manner at this time,  
11 in mind, when it issued the injunction.

12 But I do think there is the broader context of,  
13 what were we trying to establish with the anti-secrection  
14 language? That is, was it designed to do what I believe in  
15 my heart it was designed to do, as one of the draftsmen of  
16 it, was simply to prevent us from engaging in nefarious  
17 conduct, trying to secrete our assets and put them outside  
18 the reach of the Court.

19 But Your Honor, when I look at the principal  
20 objection to the payments being made -- and that is the  
21 objection of the UCC and the Non-Consenting States, and  
22 even, to some extent, the Ad Hoc Committee on Accountability  
23 -- I think there is an underlying thematic concern of  
24 somehow there being some sort of prejudice to the estate.

25 And I think, if that's the concern, we can address

1 that issue. And we have attempted to address that issue,  
2 Your Honor.

3 I think the first concern that was raised was that  
4 we were asking this Court to somehow bless the terms of the  
5 settlement. I think Your Honor has already addressed that  
6 issue. And as Your Honor noted, I failed to, in my opening  
7 remarks, I believe I might have failed to reference the fact  
8 that we filed a revised form of order with a blackline last  
9 night. That is docket number 1858. We addressed that, and  
10 we have accepted language addressing that, from the UCC, the  
11 Debtors and the Non-Consenting States. So, I believe that  
12 issue is resolved in paragraph three of the revised order.  
13 Obviously, if I have that wrong, Mr. Preis or Mr. Troop will  
14 correct me.

15 There was also some concern about some language  
16 between the Sackler's family settlement and the company's  
17 own settlements with the DOJ. I think the Court has also  
18 addressed that, Your Honor. And that is reflected in  
19 paragraph four of the revised order. And again, if that's  
20 not resolved, Mr. Preis and Mr. Troop will correct me.

21 The last issue relates to the source of the  
22 payment. And I'd like to say upfront, Your Honor, when we  
23 were determining where to make these payments from, there  
24 was no attempt to try and make the payments in a way that  
25 would give us some sort of strategic litigation advantage in

1 the future. And I don't think anybody is suggesting that,  
2 but I thought it was worth just saying that, because I think  
3 it puts into context our attempts to resolve this.

4 What we are managing, principally, is efficient  
5 availability of liquidity in the short term. And Your  
6 Honor, that goes to the fact that, yes, we have made  
7 substantial disclosures to the parties and interests of  
8 family wealth.

9 As the parties know, wealth does not equate to  
10 liquidity. And there are those assets that are more liquid  
11 than others, and \$225 million is a material sum of money.  
12 And so, we're principally driven by that concern.

13 The UCC and the Non-Consenting States, if I  
14 understand their objection, believe that they would be  
15 prejudiced if we used sources that are proceeds, or at least  
16 arguably proceeds of Purdue distributions. And I think that  
17 their arguments are that they have better causes of action  
18 or better claims to proceeds than not. And, Your Honor, as  
19 a bankruptcy lawyer, I understand that argument. And  
20 they've asked us, though, to make a representation and  
21 warranty that is ordered by this Court that we would use  
22 funds that are not, at least indirect distributions from  
23 Purdue, or transfers from Purdue.

24 And Your Honor, that is just simply easier said  
25 than done. You know, as I said, Your Honor, we're not

1 running away from the fact that we did, in fact, receive  
2 substantial distributions from Purdue, but that doesn't mean  
3 that all the distributions are from Purdue. But that also  
4 doesn't mean that all -- rather not all the distributions,  
5 all the wealth -- is from Purdue. But that also doesn't  
6 mean that all of the wealth is liquid. And we're simply  
7 dealing, trying to deal with that in the most efficient way  
8 we can.

9 But even if that were not an issue, Your Honor, we  
10 have a much broader issue with how the Committee and the  
11 Non-Consenting States are asking us to resolve this. And I  
12 don't think it will come as a surprise, Your Honor, to say  
13 that there is a substantial disagreement over what an  
14 indirect transfer from Purdue may mean. And it's one thing  
15 for us in the context of litigation, and the context of  
16 advocacy, with respect to, and for the purposes of future  
17 litigation, to say that something is or -- you know, for us  
18 to say it's not an indirect distribution, or an indirect  
19 proceeds of distribution, or them to say it is. It's quite  
20 another thing for us to agree in the context of an order to  
21 prejudge that, and to know what the consequences of being  
22 wrong on that would be.

23 And so, we are very uncomfortable with being able  
24 to address the Committee's concerns the way they would like  
25 them addressed, with the representations and warranties that

1 they would like us to make.

2 But as I said, Your Honor, we don't believe that  
3 the anti-secretion language even applies to this payment.  
4 However, we do want to address the committees and the Non-  
5 Consenting States' concerns as it relates to any potential  
6 prejudice. We do think we've done that in the form of order  
7 that we submitted to Your Honor overnight.

8 And if I understand again, the Committee's  
9 concerns, I think their first concern is that, to the extent  
10 that one of the covered parties -- and that's a defined term  
11 that is borrowed from the injunction, that's borrowed from  
12 the settlement, that's in the anti-secretion language --  
13 were to have both assets that are not indirect proceeds, or  
14 direct or indirect proceeds, and have assets that are  
15 indirect proceeds, that by using the assets that are  
16 indirect or direct proceeds, they would somehow be  
17 prejudice; well, we've agreed that to deem, to the extent  
18 that that those facts exist; deem any amounts that we pay to  
19 be from amounts that are not direct or indirect proceeds  
20 from Purdue, transfers from Purdue. And that's reflected in  
21 the order in paragraph five.

22 Second, and Your Honor, we borrowed this from,  
23 frankly, prior art, when we deal with what I'll call  
24 enterprise-style settlements. And I think Your Honor will  
25 know what I'm talking about when we say, okay, on behalf of

1 the enterprise, we're going to make this settlement. We  
2 don't really know how we should allocate this now.

3 And it may be relevant in the future. It may turn  
4 out that it's never relevant in the future. So, if it ever  
5 becomes relevant in the future, we'll address it at that  
6 time. And so, we've put a provision in to reflect that,  
7 that if we ever get to the point that we don't settle this  
8 litigation -- and that the Committee or representatives of  
9 the estates or other parties and interests, bring these  
10 claims, and they're successful on their claims, so that  
11 we're getting down to the last \$225 million, or the portion  
12 that the covered Sackler party paid into this settlement,  
13 and it's not there, and had it been there, there would have  
14 been additional recovery -- would give this court the power  
15 to fix that equitably through some reallocation in the  
16 future.

17 Now, Your Honor, we think that it's highly  
18 unlikely we ever get there. But we want to address the  
19 concerns that have been raised by the Committee and the Non-  
20 Consenting States. And we've added that type of provision  
21 that gives this Court the ability to make it right, so to  
22 speak, in the future. And that's paragraph five.

23 Lastly, we understand there was a concern that we  
24 might take the position that if we could establish that  
25 these amounts were, in fact, paid from proceeds, indirect



1 transfers from Purdue, that we would be able to say,  
2 essentially, Your Honor, "Ah-ha, you can't get it now, we've  
3 already given it away to the DOJ." And that's not our  
4 intent, Your Honor. It was never our intent. And so, we  
5 added language that clarifies that even if these are  
6 proceeds of direct or indirect transfers from Purdue, we  
7 won't use that as an argument to say any other claims that  
8 somebody may have against us, should be reduced to offset  
9 because of that.

10 And Your Honor, we believe that should adequately  
11 address the concerns. And we're, Your Honor, to the extent  
12 that that's not sufficient, you know, what else we could  
13 possibly do. We're open. But we're not sure what else  
14 would actually help.

15 Your Honor, but again, I think that this, in the  
16 context of the whole, really needs to be considered. And we  
17 should not lose sight of what we're trying to accomplish  
18 here. The Sackers are trying to move these cases along.  
19 And we have achieved a significant milestone by settling  
20 with the DOJ. But not just the settlement, the mere fact of  
21 the settlement, but in a manner that is beneficial to the  
22 creditors. And this is where, I referenced earlier, Your  
23 Honor, I wouldn't say \$250 million is not a material sum of  
24 money, because obviously, it is. But I do think it needs to  
25 be put into the context of now the prejudice.

1 And simply put, if the claims of the creditors are  
2 as strong as they claim they are, as the creditors claim  
3 they are, well then, let's face it, the DOJ has equally  
4 strong claims. But what the DOJ also has is enforcement  
5 remedies that are not available to other creditors; that are  
6 available only to the DOJ. And those claims, what those  
7 enforcement remedies risk significantly impairing what would  
8 be left available to the creditors, and available to the  
9 abatement goals that we all so desire.

10 Now, I say that, Your Honor, and I cannot  
11 emphasize more, that we do contest that liability. So, I'm  
12 not acknowledging the liability. I acknowledge, though, the  
13 risks here. And in absence of any settlement, we'll fight,  
14 because we'll have no choice. We're hoping not to do that.  
15 We prefer to settle it. But in the arguments that the  
16 creditors make, they can't really have it both ways. They  
17 can't credibly assert that they have a material prejudice on  
18 the basis of a presumptive strength of claims, but ignore  
19 the benefits that are created, actually, by this settlement,  
20 using those presumptive strengths of the claims. Because we  
21 clear away the DOJ; even if we don't get to the global  
22 settlement, we clear away the DOJ.

23 Or, say it from, look at it from the other  
24 standpoint: They can't ignore the risks of blowing up the  
25 DOJ settlement, because there's risk, not just to us, the

1 Sacklers, there's risks to the estates.

2 So, I think when we look at some of the issues,  
3 Your Honor, that I think you were getting at, as it relates  
4 to, you know, is this somehow prejudicial? I don't think it  
5 is at all. I don't think, even if we didn't put in the  
6 additional language, it would be prejudicial at all. But we  
7 put that additional language in, that I think solves it all.

8 Your Honor, I'd just like to say one more thing,  
9 and then I'll pause. And that's to come back to a more, I  
10 think, optimistic note. And that this settlement here is  
11 intended to be progress toward the abatement plan, that  
12 everyone has claimed they would like to see achieved. And I  
13 fully acknowledge, there's a lot of open issues, including  
14 open issues with respect to what abatement even means, or  
15 how it should be done; which is not something that the  
16 Sacklers are involved in, and that's up to those parties who  
17 will be providing those abatement services. But that is the  
18 goal here. And this needs to be viewed, or I'd submit, Your  
19 Honor, at least, that this be viewed in that context, and  
20 that point not be lost in the noise.

21 Your Honor, that's all I have on the merits. I'm  
22 happy to answer any questions you may have, otherwise, I'll  
23 cede the podium.

24 THE COURT: Okay. I have a question that's  
25 related to the last point that you made. And you could

1 answer this, or counsel for the United States can answer it.  
2 Is there any understanding or agreement or commitment by the  
3 United States, regarding how the \$225 million would be  
4 spent? I.e., in particular, is there any commitment by the  
5 United States that it would be spent on abatement?

6 MR. UZZI: Your Honor, the United States is on the  
7 line, so I actually think it's best that I let them answer  
8 that question.

9 MR. FOGELMAN: Good morning, Your Honor. This is  
10 Larry Fogelman from the United States Attorney's Office on  
11 behalf of the United States. Your Honor, the plain terms of  
12 the settlement don't address how the funds would be used. I  
13 think, typically, in a false claims act settlement, moneys  
14 go towards those agencies that were harmed by the false  
15 claims. So, the moneys would not be used -- I understand  
16 the states have worked out, or are working towards an  
17 abatement plan -- those funds would not be used for the  
18 states' abatement plan.

19 THE COURT: I'm not talking about the states'  
20 abatement plan, but how the United States has used the  
21 money. And I'm not trying to put any parameters on that. I  
22 just am curious as to whether they would go into general  
23 funds; whether they would go to, on the other hand, to  
24 Health and Human Services, for example, specifically, for  
25 their various programs for addiction treatment, or if

1 there's been any thought given to that, at this point.

2 MR. FOGELMAN: Your Honor, I can't say with any  
3 specificity, whether the agencies that would be receiving  
4 the funds have determined how those funds would be used.  
5 What I can say is, in a typical False Claims Act case, where  
6 the agencies are harmed by virtue of the false claims that  
7 have been submitted to the government, that the moneys  
8 recovered from the FDA, at least to the extent of single  
9 damages, would go towards those agencies, to make them whole  
10 for the amounts lost through the false claims that were  
11 made. But again, with regard to this specific case, I  
12 cannot -- I'm not aware of any deliberations by the agencies  
13 of how to use those funds.

14 THE COURT: Okay. All right. Okay, so, I have  
15 looked at the proposed amended order, and there is an  
16 obvious dispute between what the order provides in paragraph  
17 five and proposed language by the Committee and the Non-  
18 Consenting State group, in their paragraph five, that latter  
19 order seeks to -- would provide that each covered party  
20 agrees to pay its obligations under the settlement from a  
21 source that contains funds that are not directly or  
22 indirectly proceeds or distributions from the Debtors. And  
23 Mr. Uzzi has been candid, as was the motion, in paragraph  
24 11, in saying, well, depending on your definition of  
25 'indirectly,' that's impossible to do.

1           So, I'll leave that dispute to decide for the  
2           moment. It does appear to me that the revised proposed  
3           order does make it clear -- although it was implicit in the  
4           motion -- that, as stated in paragraph three, "In entering  
5           this order the Court is not approving the settlement  
6           agreement with the DOJ, or making any findings of fact or  
7           conclusions of law with respect to this settlement  
8           agreement." And then, in paragraph four, "Entry of this  
9           order shall have no effect on the disposition of the  
10          Debtors' motion to approve their settlement agreement with  
11          the DOJ, or be construed as making any findings of fact or  
12          conclusions of law ...," related in that order, motion, to  
13          this order. I.e., the two motions are completely unlinked

14                 Paragraph six does have the ability to reallocate,  
15                 although it is limited to the Debtors' estates' ability;  
16                 whereas paragraph 13 applies not just to the estates, but to  
17                 other parties' judgments as well.

18                 Paragraph seven has the no offset language. A lot  
19                 in the objection can be subsumed in the proposed language  
20                 from the objector's order, that would say you just are not  
21                 making the payments from -- indirectly or directly --  
22                 proceeds of distributions from the Debtors. I don't know  
23                 whether the Committee and the objecting, or Non-Consenting  
24                 States, have considered leaving that language aside; whether  
25                 there are any other changes to the order, assuming that

1 language might not survive the motion; that would address  
2 their concerns, that they have also raised in the objection.

3 For example, I had considered, in paragraph three,  
4 adding at the end of that paragraph: Comma, including,  
5 without limitation, as a settlement agreement, might be  
6 asserted as a defense. And in the avoidance ... and any  
7 future -- I'm sorry -- in any future proceeding, under  
8 Article Five of the Bankruptcy Code, or to the effect of the  
9 automatic stay, that any future case under the Bankruptcy  
10 Code; which would, I think, make it crystal clear that I  
11 would not be making any findings, and a future Court would  
12 not be bound as to defenses to reeling in a recovery on an  
13 avoidance claim in a future Sackler family member  
14 bankruptcy.

15 Similarly, I would think maybe paragraph six  
16 should be expanded beyond prejudicial to the estates'  
17 ability, and be intended to also include other parties  
18 protected by paragraph 13 of the case stipulation.

19 But with that answer, I'm happy to hear from  
20 either Mr. Preis or Mr. Troop, or whoever is speaking for  
21 the objects.

22 MR. TROOP: Thank you, Your Honor. This is Andrew  
23 Troop from Pillsbury on behalf of the Non-Consenting States.  
24 If it is all right with Your Honor, Mr. Preis and I have  
25 split up the presentation to you today.

1 THE COURT: Okay.

2 MR. TROOP: And to preview, just a little bit,  
3 Your Honor, it's because events over the last day have, in  
4 part, led us to think that there might be different and  
5 appropriate resolutions with respect to the underlying  
6 motion, at this time.

7 First, Your Honor, I want to underscore what was  
8 implicit, I think, in Mr. Uzzi's presentation, which is that  
9 we have worked, and worked hard, over the last days to see  
10 which issues we could eliminate from dispute, and which we  
11 could not. And that but for, I think, the issues that  
12 you've raised and that we've been thinking about, we have  
13 resolved two of the three issues. But the one that remains  
14 the sticking point is this issue of where is this payment  
15 coming from?

16 Your Honor, first, I want to address a few other  
17 things that Mr. Uzzi stated. The first is that there are,  
18 undoubtedly, mediation benefits, or benefits to the  
19 mediation, from knowing the Department of Justice's  
20 position, both with respect to the Debtors and with respect  
21 to the Sacklers; whether knowing those positions translates  
22 into consummating settlements now, is a very different  
23 question.

24 Your Honor, since, effectively the beginning of  
25 this case, states, in particular, have been voluntarily, or



1 involuntarily restrained in pursuing their claims against  
2 the Sacklers. And while the United States was not similarly  
3 voluntarily or involuntarily restrained, I think that the  
4 intent of your preliminary injunctions, and our colloquies,  
5 was to create an environment in which parties would  
6 negotiate in a collective way, to determine whether or not  
7 there is a consensual plan of reorganization that can be  
8 reached.

9 And, you know, as I've said in chambers  
10 conferences and in public hearings, one of the challenges to  
11 that process has been consistently that DOJ, vis-à-vis both  
12 Purdue and the Sacklers, were sitting on the sideline, given  
13 the sequence in which the mediation was laid out.

14 We are now in the midst of mediating,  
15 particularly, the Sackler issues. And together with that,  
16 because it is not really easy to divorce the issues, the  
17 question about the future of Purdue post-reorganization.  
18 Both the settlements have significant impact on those  
19 discussions on the go-forward basis.

20 So, Your Honor, the State actually is set --

21 THE COURT: Can I interrupt you on that? I don't  
22 see how the DOJ one does, frankly, because it's just the  
23 payment of money by the Sacklers, who aren't involved in  
24 Purdue anyway. But --

25 MR. TROOP: Let me get to that, Your Honor. So,

1 Your Honor, the issue here comes down to the -- from a case  
2 dynamic perspective, we -- the states and others -- had been  
3 restrained from doing exactly the same thing with the  
4 Department of Justice; pursuing claims, having the threat of  
5 those claims.

6 THE COURT: I understand that point.

7 MR. TROOP: And so, Your Honor, what happens is  
8 that we now have a settlement where I think everyone agrees  
9 \$225 million is a material amount of money. And the  
10 question becomes -- and this is what became very clear to me  
11 yesterday, Your Honor -- is, as I think Mr. Uzzi said  
12 yesterday and repeated today, we don't even know whether  
13 this \$225 million will be relevant in the future, if there  
14 is a settlement or if there's not a settlement. And  
15 accordingly, we're left with having to ensure that we take  
16 positions now that the \$225, which is a material amount of  
17 money, will not be material to the outcome of the  
18 negotiations that are ongoing.

19 And Your Honor, there's no -- Mr. Uzzi talked a  
20 lot about the benefits to the states, or the lack of  
21 prejudice for moving forward right now. I would note, Your  
22 Honor -- I've read this settlement agreement again and again  
23 over the last few days -- there is no requirement in the  
24 settlement that you approve it now. There's no deadline by  
25 which it needs to be approved.

1 THE COURT: I agree with that. I mean, Mr. Uzzi,  
2 if you disagree, you can tell me. But I agree with that, in  
3 reading paragraph two.

4 MR. TROOP: And then, Your Honor, admittedly, the  
5 Sacklers didn't even raise the interest component as  
6 potential prejudice from delay, or in support of the  
7 shortened notice. But if my math is correct, we're talking  
8 about \$4,600 a day after November 5th, a trivial sum, in the  
9 scheme of things.

10 So, the Sacklers and the estates -- it's Sacklers,  
11 and the purported benefits to states and other creditors --  
12 can and will be maintained. There is no out if you just  
13 simply choose not to rule now, and to defer ruling until the  
14 mediation is concluded. And, as noted, the cost of doing so  
15 is trivia.

16 The last point, Your Honor, is with respect to the  
17 proposed resolutions set forth in the revised order,  
18 submitted by the Sacklers. And I think that Mr. Preis will  
19 address this some more. But I wanted to highlight, Your  
20 Honor, that the resolutions are, in my opinion, they're  
21 illusory if, in fact, there is not \$225 million in proceeds  
22 or wealth, not directly or indirectly derived from proceeds  
23 received from Purdue distributions.

24 THE COURT: I don't understand. Maybe I'm just  
25 missing that point. I don't understand at that point.

1 MR. TROOP: Your Honor, Mr. Uzzi, I believe,  
2 acknowledges that there is, at the very least, an argument  
3 that all of the Sacklers' wealth derives, directly or  
4 indirectly, from distributions they receive from Purdue.  
5 And in fact, Your Honor, requests for the Sacklers to  
6 identify \$225 million in wealth where that would not be true  
7 unequivocally, have been answered by the statement that Mr.  
8 Uzzi said today; which is that this is a liquidity issue,  
9 and that it's not as easy as anyone might imagine, to be  
10 able to identify that source of funds. Which is a long way,  
11 Your Honor, of coming back to the main point that I want to  
12 make; which is that if it turns out that there is a global  
13 resolution in this case, which makes this resolution, this  
14 payment, irrelevant, simply irrelevant, the risk of doing  
15 something now, which might make it relevant, are not  
16 outweighed by the process that we're engaged in to achieve a  
17 collective resolution.

18 THE COURT: Now I understand what you were saying.  
19 I thought you said the opposite, which is that making the  
20 payment now would be irrelevant. I know completely  
21 understand what you said.

22 MR. TROOP: Sorry, Your Honor, I apologize for  
23 having not been clear.

24 THE COURT: It was probably me. Let's blame it on  
25 telephonic hearings where we can't see each other. So, Your

1 Honor, when we look at this, we say, let the process that  
2 we're engaged in play itself out. There's simply not enough  
3 of a reason to approve this settlement now, period. That  
4 does not mean that I'm asking you to deny the relief that's  
5 been requested. I do understand the denial of the relief  
6 that's been requested might lead to a result that is  
7 unpredictable, because we don't know how the DOJ will  
8 respond. So, there is a balance that you can strike today  
9 that maintains the balance in the case. We're all spending  
10 hours and hours a day and a week, and each month, trying to  
11 determine, trying to figure out a way to get to the end of.

12 So, with that, Your Honor, unless you have any  
13 other questions for me, I'll turn it over to Mr. Preis.

14 THE COURT: Okay, thank you.

15 MR. TROOP: Thank you, Your Honor.

16 MR. PREIS: Good afternoon, Your Honor. It's Arik  
17 Preis from Akin Gump Hauer & Feld, on behalf of the Official  
18 Committee. First of all, can you hear me?

19 THE COURT: Yeah, loud and clear.

20 MR. PREIS: Okay. Now that Mr. Uzzi and Mr. Troop  
21 have both spoken, I'm going to try to cut what I was going  
22 to say quite substantially.

23 I want to subdivide my presentation just into  
24 three parts. The first is, the first part will be to  
25 address the injunction in the anti-secretion provision,

1 because there's been a number of things said about those two  
2 things that I want to correct. The second is to talk about  
3 the order itself, and some potential resolutions with regard  
4 to the order, and what legally is the issue at stake. And  
5 then, third, is kind of where do we go from here, given  
6 everything you've heard.

7 The first part, with regard to the case  
8 stipulation and the anti-secretion provision, I just want to  
9 remind Your Honor and the Court that when we agreed to the  
10 injunction 13 months ago, we made it clear that there were  
11 two reasons we were supportive: The first was to ensure  
12 that creditors were not racing to the courthouse to obtain  
13 judgements against the Sacklers, that would put them at the  
14 front of the line. And the second, was that as part of the  
15 quid pro quo, we negotiated for the anti-secretion  
16 provision.

17 The point of the anti-secretion provision as  
18 obvious, and it's been talked about. And the idea was that  
19 we would focus on the proposed settlement framework and  
20 investigation of it. And the Sacklers would have to agree  
21 not to secrete assets out of the reach of creditors.

22 What Mr. Uzzi said, and he kept referring to -- he  
23 knows what the purpose was, and he kept saying, well, the  
24 idea was that that the Sacklers would not take actions,  
25 intentionally, to harm creditors. Understood, but that's

1 actually not the only provision in the anti-secretion  
2 provision. It doesn't rest on intent. It says intent or  
3 material effect. And so, it doesn't really matter if the  
4 intent of the payment may or may not be to harm creditors;  
5 it's also, or whether the effect is.

6 And frankly, Your Honor, this is important  
7 because, as you know, we believe the Sacklers were  
8 intentionally moving assets out of the reach of creditors,  
9 since the first DOJ settlement in 2007.

10 Fast forward now to last week. On Wednesday at  
11 noon, we saw for the first time this proposed settlement.  
12 We had been told confidentially the amount of the  
13 settlement. But on Wednesday, we received the actual  
14 settlement, including the addendum. As we mentioned in our  
15 papers, and as Mr. Uzzi pointed out, the settlement has some  
16 issues, that we had with it. And as a result, we negotiated  
17 some modifications to the order that you, not only have you  
18 pointed out, but you suggested some revisions to, which we  
19 appreciate.

20 We also were somewhat satisfied with the addendum,  
21 because the DOJ makes assertions there in support of many of  
22 the items we've been investigating for the better part of  
23 ten months. But that's, obviously, not for today.

24 Now I move to the second portion of my  
25 presentation, which is to talk about the order.

1 THE COURT: Can we, on the first portion, I tend  
2 to agree with you that paragraph 13 of the case stipulation  
3 isn't just limited to intent, or nefarious acts. But, as  
4 you say, it says, "Or have the material effect of  
5 frustrating enforcement of any potential judgment."

6 One of the points Mr. Uzzi makes, though, is that  
7 really, permitting this settlement payment to be made  
8 promptly, doesn't have a material affect because it's  
9 actually -- leaves more for the states, consistent with the  
10 mediation that's already been -- the mediation is part one,  
11 which is left to them, to negotiate with the Sacklers, to  
12 then have allocated to abatement programs. I guess that's  
13 point one.

14 Point two is, since the focus there, as opposed to  
15 intent -- and it's hard to say there's an intent here, since  
16 it's clearly disclosed and it's to the government; it's not  
17 secreting in that sense. The intent behind the other  
18 language, not to materially affect or frustrate judgment, is  
19 recovery of a potentially-avoidable transfer.

20 On that score, particularly with the revisions to  
21 the order, there's no deeper pocket than the United States  
22 if you can't recover whatever you want to recover from the  
23 Sacklers, that's ultimately negotiated. I guess one could  
24 argue, under 550, you could recover it from the United  
25 States; although Mr. Troop made the tracing argument. But



1 you would have that anyway at this point.

2 So, I'm not sure that simply pointing out that  
3 paragraph 13 is broader than Mr. Uzzi says it is, ultimately  
4 addresses what's really at issue here; which is, does, in  
5 fact, a payment like this -- particularly with the right  
6 language in the order -- have the material effect of  
7 frustrating enforcement?

8 Now, I understand Mr. Troop's argument, which I  
9 think you're going to move to, which is the timing point,  
10 but I guess, I didn't want to let your first argument pass  
11 without observing those two points.

12 MR. PREIS: I appreciate you mentioning, you  
13 raising this, because this is exactly what I was going to  
14 get to in my discussion of the order. But to be very  
15 pointed about it, I am focused on the words, "Frustrating  
16 enforcement of any potential judgment of this Court."

17 THE COURT: Right.

18 MR. PREIS: Because the effect of the payment, in  
19 the way is being made, has that effect, which I'm about to  
20 explain.

21 THE COURT: All right, although I'm not -- well,  
22 okay. But let me -- particularly, since we're on the phone,  
23 I'm going to say this: Under 550(a), one can recover from  
24 any immediate or mediate transferee of such initial  
25 transferee, provided that that transferee took, without

1 knowledge of the voidability of the transfer avoided.

2 So, you know, the record -- there's certainly  
3 plenty of references, including in Addendum A to the  
4 settlement agreement that we're talking about, that refers  
5 to the DOJ's belief that the Sacklers received avoidable  
6 transfers.

7 I agree, you have a tracing issue, but you have a  
8 tracing issue today on that point. And I just wanted to  
9 note that.

10 MR. PREIS: Agreed. Again, Your Honor, which I'm  
11 about to address, which is exactly that point.

12 THE COURT: I'll stop interrupting you then.

13 MR. PREIS: No, no, it's not -- I appreciate,  
14 because I want to make sure I'm going to hit the points that  
15 are front and center in your mind.

16 THE COURT: Okay.

17 MR. PREIS: In moving to the settlement agreement,  
18 paragraph two, which is the paragraph that has caused all  
19 these problems, states that, apparently, the Sacklers need  
20 to state that they'll disclose the fact that they actually  
21 obtained an order from the Court, confirming in advance that  
22 payment is not prohibited and they have to disclose whether  
23 or not payments have been directly or indirectly from  
24 transfers from the debtors.

25 So they don't have to use proceeds of direct or

1 indirect transfer from Purdue, but for some reason, the DOJ  
2 just wanted them to confirm whether or not they were going  
3 to do so, which again, I assume was -- someone put in there  
4 to make sure that they wouldn't run afoul of the anti-  
5 secretion. I'll call these proceeds transfer proceeds. We  
6 raised this issue with the Sacklers over the weekend and we  
7 had calls with them and based on that, our position would be  
8 as follows, and we hope that this -- you know, and this is  
9 not in the order because the order -- the proposed form  
10 order we ultimately put out reflects after a number of  
11 discussions.

12 But the way we would propose, right, if we could  
13 have it in a perfect world -- the Sacklers should tell us if  
14 they have sufficient assets that are not transfer proceeds  
15 to make the settlement payment. If they have such assets,  
16 they should use them first and clearly delineate them in the  
17 order, and hopefully they have \$225 million to do that. If  
18 they don't have sufficient assets that are not transfer  
19 proceeds to make the settlement payment or if all of their  
20 wealth is indeed transfer proceeds, then they should tell us  
21 that, too. They have not wanted to do that. And they  
22 should use the assets to make the payment after exhausting  
23 all the assets that are not transfer proceeds and clearly  
24 represent in the order how much is transfer proceeds and how  
25 much is not so we can rely on that.

1 Third, if they can't distinguish between assets  
2 which are transfer proceeds and not transfer proceeds,  
3 that's fine, too. Make the settlement payment to the DOJ  
4 and state in the order that the Sacklers comingled their  
5 assets in an attempt to hinder, defraud, or delay creditors  
6 and then make the payment to the DOJ for those assets. We  
7 discussed this with the Sacklers over the weekend and  
8 various permutations since then. The response wasn't that  
9 they don't want to any of this. It's that they tried to  
10 solve for a different issue which you've pointed out and  
11 which they've pointed out -- which is a start -- I will  
12 admit to you it's a start -- but it doesn't answer the  
13 question. The question -- the key point -- is that they  
14 don't want to represent and warrant anything about whether  
15 statement payments comes from transfer proceeds for obvious  
16 reasons.

17 THE COURT: But Mr. Price --

18 MR. PREIS: Right.

19 THE COURT: -- have you laid out a definition of  
20 what indirectly in this context means? I mean, I think to  
21 be fair to both sides, unless you have a clear definition of  
22 the phrase in paragraph 13 of -- I'm sorry -- of direct or  
23 indirect in paragraph 5, then it would just be an invitation  
24 to future litigation.

25 MR. PREIS: Completely agree with you which is

1 why, as I'm going to get to, we came back to the problem  
2 that they don't want to admit one thing because it would put  
3 them in a box, and as a result, they tried to solve for  
4 something else which, in their solution, has the effect of  
5 frustrating enforcement of a potential judgment that we will  
6 have in the future.

7 So what we come back to --

8 THE COURT: But why do you need them to admit that  
9 all proceeds paid to them by the debtors within the statute  
10 of limitations for an avoidance action were paid to them  
11 with the intent to avoid -- you know, for avoidance  
12 purposes? I don't -- is that what you're asking them to  
13 admit or am I missing something?

14 MR. PREIS: No, I don't need them to admit one or  
15 the other. I need them to take a position on it because  
16 otherwise, our view is they violate the anti-secretion  
17 provision.

18 THE COURT: But let me -- what is it you're asking  
19 them to admit to as far as to whether they've engaged in a  
20 fraudulent transfer? That's what I don't understand.

21 MR. PREIS: No. All they have to do is tell us  
22 whether the proceeds are what I call -- whether the payments  
23 are transfer proceeds or not transfer proceeds.

24 THE COURT: But you can't do that without defining  
25 the word indirect.

1 MR. PREIS: Agree with you which is why -- which  
2 is where I'm going to get to which is, if we can't come to a  
3 resolution of what that means as Mr. Uzzi pointed out  
4 earlier, then I fall back on what Mr. Troop pointed out  
5 which is, again, we're not trying to undo the settlement.  
6 We don't object on the grounds of the actual settlement and  
7 the Sacklers aren't seeking approval of the settlement. So  
8 all we're asking is if the settlement doesn't have to be  
9 approved today -- sorry -- if the payment doesn't have to  
10 made today, as Mr. Troop pointed out, and we can allow the  
11 parties in mediation -- in phase two of the mediation -- to  
12 work out the -- hopefully, a resolution of the Sackler  
13 issues and as part of that, then permit the payment to be  
14 made without saying that the settlement is not approved,  
15 then it puts everyone on the same ground as they are now  
16 with regard to the amount of --

17 THE COURT: I understand that point. I'm just  
18 saying that I think that -- that's fine. And you're going  
19 to get to that point, but as far as protecting the estate  
20 and the other parties and clearly paragraph 13 was not just  
21 limited to the estate, one could reasonably do that, setting  
22 aside the timing issues. I think one could reasonably do  
23 that without requiring the Sacklers to make a representation  
24 which, unless you define indirectly, would subject them to  
25 arguably have made -- making a false representation --

1     arguably -- or alternatively, having them represent  
2     something that I don't think, again, they should be required  
3     to make as part of protecting the parties and the estates  
4     which is that somehow they are making an intentional  
5     fraudulent transfer or have done so.

6             It would seem to me that the protection would be  
7     the notice that the United States is under that some part of  
8     even as much as all of the 225 million might be -- might be  
9     -- the proceeds of an avoidable transfer and therefore,  
10    could be recoverable under 550(a) and (d). I don't think  
11    you need any representation from the Sacklers to enhance  
12    that. You may need some tinkering with the order to make it  
13    crystal clear, but -- anyway.

14            If you're moving on to the timing point, I think  
15    Mr. Troop made that point pretty clearly.

16            MR. PREIS: Understood and I'm not going to  
17    reiterate it. I hope that you can see that's how we get to  
18    the same ultimate answer.

19            THE COURT: Yeah. No, I do -- I mean, if everyone  
20    can agree then you have an agreement -- then the objection  
21    goes away. I understand that and I also understand -- I'm  
22    not trying to facetious there -- that in this context, this  
23    has been set up -- this case and now with the mediation part  
24    two -- in the hope and with a process for everyone to reach  
25    agreement. So I understand that.

1 I had one other point -- one other question to ask  
2 you and in part, it's simply -- in part, it's driven by the,  
3 perhaps, completely by chance connection between the amount  
4 here -- 225 million -- and the amount that we had earlier  
5 been discussing this case as an emergency relief fund. If  
6 we knew that the federal government was going to apply this  
7 \$225 million to legitimate abatement programs or to  
8 legitimate abatement, even so much as like staffing people -  
9 - law enforcement and first responders in the hardest hit  
10 communities and then spreading out to (indiscernible)  
11 surplus with means to immediately address overdoses, would  
12 this even be an issue or would this money go out today?

13 MR. PREIS: Are you addressing that question to me  
14 or to somebody else? I just didn't want to --

15 THE COURT: To you. I'm putting you on the spot  
16 and you can just say I don't know, but it would seem to me  
17 that it would go -- it would seem to me this issue could go  
18 away if the federal government could actually say that.

19 MR. PREIS: So it's a -- I will admit to you I had  
20 not thought of the question because it was made clear to me  
21 that the federal government gets to decide what they want to  
22 do with the money however they want it -- that the money  
23 goes into the federal treasury. I heard Mr. Fogelman --

24 THE COURT: Right.

25 MR. PREIS: -- earlier. That being said, I would



1 just point out that it's my understanding that the federal  
2 government actually has already -- and I'm going to use the  
3 wrong verb -- mandated or require -- or however -- through  
4 their various agencies hundreds and millions of dollars to  
5 fight the opioid crisis that apparently has not been used.  
6 And so -- because of whether it be red tape or the fact that  
7 it's still in discussion as to how it's going to use it, et  
8 cetera, and so while what you say is -- would be a  
9 phenomenal thing if immediately 225 million could be used in  
10 the way we had wanted to use it at the -- 13 months ago  
11 through an emergency relief fund, I don't think the federal  
12 government actually is capable of doing it that way. But  
13 that's --

14 THE COURT: Well, look, I'm probably going beyond  
15 where I should go. I don't -- look, I want to be clear.  
16 I'm telling the federal government how to use this money if  
17 it ever gets it. But I do think and I don't want to put  
18 words in your mouth, but if they actually would commit to  
19 use it promptly for abatement, that might be another way to  
20 resolve this motion. But I don't think -- I apologize for  
21 even going this far on it. I don't think there's anything  
22 more to be said on it at this point, but I am making that  
23 statement and I don't think people would disagree that if it  
24 actually was going to be used for abatement promptly, I  
25 think everyone would say, spend the money. But leave that

1       aside.

2                   Is there anything more that you want to add to  
3       what you've already said and what Mr. Troop said?

4                   MR. PREIS: No thank you, Your Honor. I  
5       appreciate.

6                   THE COURT: Okay.

7                   MR. HUEBNER: Your Honor, this is Marshall Huebner  
8       for the debtors. I think probably this is the right order.  
9       Mr. Price asked me to wait until they were done, but the  
10      debtors have definitely have (indiscernible).

11                  THE COURT: All right. Well, let me -- Mr. Quinn  
12      objected to --

13                  MR. HUEBNER: Oh, I'm sorry. I apologize --

14                  THE COURT: -- the court. Do you have anything,  
15      Mr. Quinn, to add to what counsel for the non-consenting  
16      states and the committee have said? No. Okay. All right.  
17      so I think you can go ahead, Mr. Huebner.

18                  MR. HUEBNER: Sure. Your Honor, I think that  
19      there are, you know -- during parts of this hearing I have  
20      to confess my head was spinning about exactly what the  
21      (indiscernible) conditions were --

22                  MR. QUINN: Your Honor. I'm sorry.

23                  MR. HUEBNER: Oh, Mr. Quinn, please.

24                  MR. QUINN: Mr. Huebner, I apologize. Apparently,  
25      I was unmuted on Court Solutions but not on my iPhone so I

1 apologize.

2 THE COURT: Okay. That's fine.

3 MR. QUINN: Your Honor, I just wanted to get back  
4 to a quick point that you had made earlier in the hearing.  
5 I wanted to refer to case stipulation paragraph 17 that says  
6 that the stipulation relies on the term sheet. I think the  
7 issue I was making concerning criminal liability is that the  
8 term sheet specifically denounces that the Sacklers need to  
9 receive a release from all potential federal liability not  
10 just civil liability.

11 This point is important to this issue just  
12 because, does this settlement really -- approving it today  
13 versus next month -- truly advance the cases. If we're not  
14 in compliance with the requests in the term sheet, then I  
15 can't quite understand how we are at this very moment  
16 advancing cases.

17 THE COURT: Well, because you're resolving the  
18 civil liability claim.

19 MR. QUINN: Right, definitely. But the term sheet  
20 calls for all potential federal liability, not just civil  
21 liability and maybe the Sacklers' counsel can clarify what  
22 they mean by all potential federal liability.

23 THE COURT: But the term sheet isn't before me.  
24 That's not -- I mean, you know, sufficient unto the day is  
25 the evil thereof. I decide what's before me. I'm not

1 deciding anything else.

2 MR. QUINN: But what is before you is whether, you  
3 know, shortening this notice today -- their argument is that  
4 it advances the mediation and I'm saying it may not advance  
5 the mediations because hearing it today doesn't necessarily  
6 accomplish this. And the last thing I'd say, Your Honor, is  
7 I do appreciate what you're saying regarding abatement and  
8 for the federal funds to be used specifically for abatement.  
9 So I just want to point out the ad hoc committee on  
10 accountability truly does believe that the DOJ settlement  
11 funds should be used for that particular purpose rather than  
12 just to go into the general treasury funds.

13 THE COURT: Okay. Thanks. All right.

14 MR. QUINN: Back to Marshall.

15 THE COURT: Mr. Huebner.

16 MR. HUEBNER: Okay. Thank you, Your Honor. So  
17 Your Honor I have to confess that, you know, as the  
18 colloquys were going on, I was having a little trouble  
19 following myself and so I'm going to come at it maybe from a  
20 little bit of a different angle. Question number one to me  
21 is, does the order apply at all. In other words, is this a  
22 comfort order or this actual release? And I guess the way I  
23 think about it is as follows: I went back and checked every  
24 one of the relevant transcripts and what I said on October  
25 10th and 11th about this provision, what Mr. Price said, and

1 what Mr. Uzzi said. I think it's fair to say that the --  
2 you know, the focus of everyone at the time was now  
3 secretion which was understandable because among other  
4 things, many of the Sacklers, you know, live overseas and  
5 it's very complicated and there were quite a few of them and  
6 they were getting the benefit of the injunction. That's  
7 what we were talking about. You know, it is absolutely  
8 correct without any question that it says, or the material  
9 effect of frustrating enforcement.

10 You know, candidly, I don't think it was in my  
11 head that the Sacklers wouldn't be allowed to settle any  
12 litigations and I think it was originally our order and  
13 certainly whether anyone said that has relevance -- no one  
14 did say it, right. So then you get to the question of,  
15 well, let's just do it in the plain meaning world, which is  
16 going to be, I think, pretty (indiscernible) for all of us  
17 for a while now. And the question is, is taking their --  
18 you know, \$225 million of their assets and settling  
19 potentially massive civil claims by the United States of  
20 America likely to have a material effect on the frustrating  
21 enforcement. Because in fact, the estate owns all these  
22 claims that we're talking and they're actually our causes of  
23 action and so these are things that we think a lot about.  
24 Even more, when very thoughtful smart people like Mr. Price  
25 and Mr. Troop bring further nuances to our attention.

1 I didn't actually see the Sackler DOJ settlement  
2 until Mr. Price sent it to me. I was not involved in any  
3 way, shape, or form with its creation and I literally got it  
4 from Arik after it was done and announced. And the  
5 conclusion, certainly, I reached is that, we think that the  
6 Sacklers getting out from under all of the civil things that  
7 the DOJ could do against them and bring against them for  
8 \$225 million which -- you know, I obviously know the  
9 Sacklers' net worth because of course as this Court alluded  
10 and I actually had it pulled this morning at 9:56 and read  
11 that also -- the October 11th case stipulation amended on  
12 November 20th required extremely detailed presentations of  
13 the assets and balance sheets and the like of every single  
14 covered Sackler person and attestations with respect to  
15 same. And so those of us who are in the inner cone of  
16 ultimate confidentiality have a strong sense of things --  
17 what I would say which is public is that the debtors'  
18 forensic reports that many have cited and on some levels  
19 some others have credit for, even the work was ours, show  
20 over \$10 billion in transfers going out. There's a second  
21 (indiscernible) report that shows transactions, some of  
22 which are potential undervalue transactions, and, you know,  
23 it doesn't -- and there are all the public reports about \$13  
24 billion and the like and media articles saying this is 2  
25 percent of their wealth. And so, you know -- again, I'm not

1 going to disclose anything at all except to say that the  
2 estate carefully considered whether -- even you viewed the  
3 order applying at all, whether the Sacklers paying 225 to  
4 fully resolve the DOJ would have a, quote, material effect  
5 of frustrating enforcement of a potential future fraudulent  
6 transfer judgment and we think it doesn't.

7 And we think it doesn't at least --

8 THE COURT: Can I just stop you there? That may  
9 well be the case and no one really is arguing that it isn't,  
10 but at the same time, I don't really have any evidence to  
11 say it is.

12 MR. HUEBNER: No and Your Honor, keep going.  
13 There's a -- I'm going to explain why I think one can reach  
14 that conclusion pretty comfortably, frankly, on the basis of  
15 what I'm about to say. And maybe I'm wrong but --

16 THE COURT: Okay.

17 MR. HUEBNER: -- let me -- that's where I'm going  
18 next, right. So obviously as those pointed out, if we reach  
19 a settlement, this is not relevant. If there's no  
20 settlement and there's a litigation and the estate claims a  
21 loan otherwise would have taken every single penny of the  
22 Sacklers and we leave them literally penniless and we're  
23 still owed more money, as you pointed out, we go after -- I  
24 think although it sounds kind of crazy but there it is in  
25 this extreme fact pattern -- the DOJ. If our causes of

1 action are less than the Sacklers' net worth, then we can  
2 recover on them and this payment did not have the material  
3 effect.

4 Whether or not the payment to the DOJ has its  
5 origin in funds that are directly or indirectly traceable to  
6 Purdue, I actually think is a red herring because what  
7 happens in a fraudulent transfer judgment under 550 and 551,  
8 especially when it's cash that was transferred since the  
9 estate has the option of either getting the economic value  
10 plus pre-judgment and post-judgment interest or getting the  
11 property back. Since this is largely cash transfers, we get  
12 the value so if someday a court finds that we get -- you  
13 know, the Sacklers have to return X billion dollars, we just  
14 have a judgment against them and we can recover against all  
15 of their assets, you know, wherever located irrespective of  
16 whether they are traceable as being Purdue transfers because  
17 we're not trying to get the exact physical dollars back. It  
18 was all, obviously, electronic. We're simply recovering on  
19 our judgment and so I don't know that it's actually  
20 analytically relevant in terms of recoverability whether  
21 these funds that were used, even in the extreme fact pattern  
22 where we need every single penny they possibly have to  
23 satisfy the judgment, that in fact the origin of these funds  
24 is particularly relevant, frankly, analytically, obviously.

25 Now let's turn to how we got protected from this.



1 THE COURT: The transferees that the committee is  
2 focusing is not the Sacklers. It's the government.

3 MR. HUEBNER: Correct. And that's my point, Your  
4 Honor.

5 THE COURT: I took it that that's why this direct  
6 or indirect is relevant is because if it's not direct or  
7 indirect then the government hasn't gotten anything that  
8 could be recovered from it. And so they don't have to worry  
9 about the payment.

10 MR. HUEBNER: And that is -- Your Honor, that's  
11 why I was not readdressing the recoverability from the  
12 federal government point. My goal --

13 THE COURT: Okay.

14 MR. HUEBNER: -- was -- and, you know, candidly,  
15 when you look at the Sacklers' blackline order which has a  
16 lot stuff -- new stuff -- in it -- it probably more than  
17 doubled the (indiscernible) -- a lot of that -- I don't  
18 think it tells out of school -- came from me because I  
19 wanted to tie down many different ways that the estate was  
20 not going to put at risk of losing recoveries because of  
21 this payment even in that extreme fact pattern where the DOJ  
22 payment is not a good thing it's a bad thing. We failed to  
23 reach agreement with the Sacklers. We sue them. We get a  
24 \$100 billion judgment that exceeds their net worth and  
25 somehow we can't get it back from the federal government and

1 so we're left 225 shy, all of which by the way is obviously  
2 a fact pattern that I think is completely unrealistic. But  
3 we get paid to draft for every eventuality and risk we can  
4 think no matter no remote.

5 So if you work up from the bottom you start with  
6 the new paragraph 7 which says that no Sackler is allowed to  
7 ever argue that they can reduce or offset any damages  
8 because this 225 is like -- that would have been something  
9 you could have recovered but now we paid to the federal  
10 government. Sorry. You know, the rest of the money we have  
11 is clean. Again, that argument is analytically in fact  
12 without any possible merit because what we would have  
13 against them is a cash judgment and it wouldn't matter where  
14 their then extant assets came from, but just to protect us  
15 fully, they're barred by a court order that would become  
16 essentially an affirmative injunction from ever seeking to  
17 reduce or offset any damages awarded whether or not this 225  
18 ultimately is proven someday by someone to be direct or  
19 indirect.

20 Paragraph 6 cauterizes the risk a different way.  
21 In other words, everything we could think of we threw in  
22 which is why there is all this new language. Paragraph 6  
23 says there's like an automatic reallocation. In other  
24 words, it's essentially like an -- and forgive the pun, Your  
25 Honor, it's absolutely not intended -- it's an anti-

1 marshaling provision that actually essentially means the  
2 court and the Sacklers agree -- they're the ones seeking  
3 this order -- will deem the 225 as having been paid from  
4 non-transferred funds. So even if we actually had to  
5 recover specifically transferred funds as opposed to merely  
6 recovering on a money judgment, this is deemed to be non-  
7 transferred. So we get access to the full corpus of  
8 anything that's left up to the amount of transfers, again,  
9 if that were the law works which in fact it doesn't, so it's  
10 kind of, you know, suspenders on suspenders.

11 Then you go to paragraph 5, right, which expressly  
12 says it's deemed to have the (indiscernible) so it's even  
13 like an equitable reallocation suspenders on suspenders.  
14 Paragraph 5 is the actual suspenders which is that the  
15 amounts are actually being deemed to be made from funds that  
16 are not proceed. And then you go to paragraphs 3 and 4  
17 which are not contested. That's language we all agreed on  
18 and buffed up that the two settlements are utterly  
19 interdependent.

20 So you might say, and it would be a fair question,  
21 you know, why are the debtors weighing in on this, right, if  
22 they had no role in the Sackler DOJ settlement. And the  
23 answer is because our job, as always, is to push forward  
24 things that we believe are in the best interests of the  
25 estate, and, you know, Mr. Troop and -- he may rue the day

1 because actually I was going to say few factual things I  
2 thought would be extremely helpful for several people to  
3 hear but whatever. All good. You know, we believe very  
4 strongly that it is in the best interest of the estate,  
5 including with respect to the phase two mediation, that this  
6 payment which I think it's fair to say in the context of  
7 their overall reported wealth is a small percentage, be made  
8 and that this be another plank in the case that we've talked  
9 all along. It's been 13 months, Your Honor. I've never  
10 varied -- intercreditor allocation, DOJ, final Sackler deal  
11 with the estate. And this is the huge --

12 THE COURT: Well, can I stop you at this point? I  
13 mean, the agreement is agreed and I'm not being asked to say  
14 that the payment can't be made. I'm just being asked to  
15 defer a ruling, having given parties a couple of indications  
16 on how I might ultimately rule, so that the parties can  
17 continue on with the mediation.

18 MR. HUEBNER: Understood, Your Honor.

19 THE COURT: I'm not being asked to undo this  
20 agreement. And I think -- I agree with you. I think -- it  
21 appears to me, although again I don't have anything close to  
22 all the facts, but it appears to me in the context of part  
23 two of the mediation that -- and my review of this agreement  
24 and the agreement between the DOJ and Purdue which leaves a  
25 substantial amount of the value to the states that as far as

1 the case is concerned this is a constructive step. I'm not  
2 sure why making the payment at this point is -- makes it an  
3 even more constructive step since the parties on both sides  
4 are committed to it.

5 MR. HUEBNER: Yeah. So, Your Honor, I would say  
6 this. These are difficult issues for me to say much more  
7 about both because I'm talking about someone else's very  
8 serious settlement with the United States of America and  
9 because we are dealing with mediation privilege, but let me  
10 just say two things and there's more that, frankly, I think  
11 would be helpful but I really cannot say.

12 Number one, under colloquy before about abatement,  
13 there is one thing that I think just simply has to be said  
14 about the November 17th and I will leave it at one fact  
15 which is, the DOJ's \$2 billion forfeiture claim as  
16 contemplated under the debtor DOJ settlement -- almost 90  
17 percent of it -- 1.775 billion -- is not being taken by the  
18 federal government but instead is being deemed paid and  
19 satisfied in full only if it goes on account of the claims  
20 of state, tribal, and local governments in the abatement  
21 framework that we have already worked out. And so Your  
22 Honor's question --

23 THE COURT: Right.

24 MR. HUEBNER: -- fundamentally was, is the DOJ  
25 letting most of what it could have taken go to abatement.

1 You have to zoom out and I apologize. I know it's not on  
2 for today but the question simply cannot be thought about  
3 unless you actually look at the much larger settlement  
4 coming next month because the overwhelming -- overwhelming -  
5 - majority of what the federal government could have taken  
6 from both the company and the Sacklers is deemed less for  
7 two purposes.

8 One, it's being directly directed to abatement in  
9 the form of the \$1.775 billion credit, and two, as Mr. Uzzi  
10 pointed out, by taking what, again according media reports  
11 in a relatively or quite or tiny -- whatever adjective you  
12 want to use -- portion of the Sacklers' wealth, the big  
13 negotiation that lies ahead remains the Sacker, slash,  
14 estate, hyphen, creditors negotiation and so that -- you  
15 know, there are two different ways in which we think the DOJ  
16 settlement, to us and to them, is absolutely and most of all  
17 in the public interest of the states and the American  
18 people.

19 As to why today and not in a month -- again, Your  
20 Honor, if they were debtors before the Court and you had  
21 jurisdiction over their assets and they were seeking 9019  
22 relief and you said, you know, with respect to your business  
23 judgment the settlement should go first -- I've heard good  
24 arguments in all directions. I'm totally convinced about  
25 the order. But they're actually not debtors under your

1 jurisdiction and we wouldn't be here at all, frankly, except  
2 that the order happened to have some extra language in it  
3 that says, or has the material effect of frustrating  
4 enforcement. Because when you look at all the  
5 (indiscernible) where we actually -- we're all talking about  
6 was secretion especially because a lot of the A side was  
7 overseas and in fact Your Honor lauded the injunction and  
8 the secretion language at great length, noting, quite  
9 sharply at time to parties, that we actually got for the  
10 estate far more than we might ever get in years of civil  
11 litigation and discovery because we'd have to do letters of  
12 rogatory and the Hague Convention and international  
13 discovery and the like and that really was the animated  
14 concern.

15 And so when I think you look at sort of what it --  
16 what hurdle is it that the Court has to, you know, agree  
17 either that it doesn't apply or it is satisfied, this is not  
18 a 9019. This is, just does this injunction bar this payment  
19 and respectfully, I don't think there's a reference anywhere  
20 in any transcript at any hearing about this that even  
21 contemplated that it would bar public, you know, settlement  
22 and judgments, let alone with the United States of America,  
23 which everybody acknowledged was an unstayed party. And  
24 even more so, Your Honor, one last point that no one has  
25 told you yet which also weighted heavily into the debtors'

1 the special committee's calculus is that what the term sheet  
2 from last October does talk about is that the non-federal  
3 governmental claimant have to be satisfied with the amount  
4 of dilution on the, quote, \$3 billion minimum deal with the  
5 Sacklers from the federal government.

6 The federal government deal demands that that  
7 dilution be zero because they have required that the 225  
8 that we're talking about be incremental to the 3 billion  
9 which is another reason that --

10 THE COURT: No, I understand that. I -- look.  
11 Let me go back to the timing point for a second, Mr.  
12 Huebner. This is as much a question for Mr. Fogelman. Can  
13 either side to this settlement agreement between the Sackler  
14 families on the one side and the DOJ on the other -- can  
15 either side -- does either side other than a breach of  
16 course have the ability to get out of this agreement if I  
17 adjourn this to November 17th?

18 MR. UZZI: Your Honor, it's Gerard Uzzi.

19 COUNSEL: Your Honor, this is -- oh, go ahead,  
20 Gerry.

21 MR. UZZI: Your Honor, Gerard Uzzi again. You  
22 know, that -- at the risk of speaking against my own  
23 interests, the last sentence of paragraph 2 of the  
24 settlement agreement provides that if the bankruptcy court  
25 denies the motion to confirm, the motion to confirm is not



1 granted in full, or the relief or the bankruptcy court's  
2 order is not consistent with the terms and conditions of  
3 this agreement, the United States may, in its sole  
4 discretion, rescind this agreement.

5 Now my counterparty is the United States of  
6 America and the -- now I know what I believe that's supposed  
7 to mean. But the question, is, you know, who's going to  
8 interpret this and who's going to enforce this if the United  
9 States were for whatever reason exercise or claim it has a  
10 right to rescind. I mean, we've already been through the  
11 discussion that it's not this Court, that this Court isn't  
12 taking jurisdiction over this agreement and we completely  
13 understand that. But, you know, it's easy for, I think, you  
14 know, parties to say, oh, just push this off and there's no  
15 risk. I think there's risk in delay, Your Honor. There is.

16 THE COURT: Well, all right. So no -- certainly  
17 the Sacklers can't get out of it. Right?

18 MR. UZZI: Correct.

19 THE COURT: Okay. So Mr. Fogelman, if I adjourn  
20 this to November 17th -- I'm not denying it and -- I'm just  
21 not ruling on it until the 17th -- does the United States  
22 have the right to rescind the agreement?

23 MR. FOGELMAN: Your Honor, if I can answer that.  
24 This is Larry Fogelman from the U.S. Attorney's Office. To  
25 address Your Honor's question I'd first like to backtrack

1 for a moment just to look at the broader context of  
2 paragraph 2. The United States in entering into this  
3 agreement did insist that we include this language about  
4 expressly disclosing the facts that the settlement funds  
5 here may come directly or indirectly from transfers from the  
6 debtors. We understand that the Court is going to be  
7 addressing fraudulent transfer issues through this case and  
8 it's very important to us that this fact was and has been  
9 disclosed to the Court.

10 You know, with regard to the question about  
11 timing. Well, I'm not prepared to formally waive any rights  
12 we may or may not have under paragraph 2 in terms of the  
13 last sentence. We certainly have no present intention of  
14 voiding the settlement agreements if Your Honor chose to  
15 wait until November to rule on this. We are -- again, in  
16 the light of wanting to bring this issue to the Court's  
17 attention, we're similarly deferential to the Court in terms  
18 of how it wants to address the timing on this issue. Thank  
19 you.

20 THE COURT: Okay. I mean, I haven't even granted  
21 the motion to shorten yet. Technically, this isn't even  
22 being heard except as a preliminary conference. Let me ask  
23 a more pointed question. Does -- we obviously have  
24 something that will happen between today and November 17th,  
25 namely, a presidential election. Does a new attorney

1 general -- well, of course it wouldn't be a new attorney  
2 general then. It would be -- the 17th is not before the new  
3 administration if there is a new administration would come  
4 in. So that wouldn't play into it at all. Correct?

5 MR. FOGELMAN: Your Honor --

6 THE COURT: This is still the DOJ before or after  
7 the election. Right?

8 MR. FOGELMAN: Your Honor, I think that's  
9 accurate. I think the administration remains in place no  
10 matter who wins the election until they're --

11 THE COURT: I think we can agree on that. Okay.  
12 So --

13 MR. UZZI: But, Your Honor -- it's Gerard Uzzi.  
14 If I can just be heard just for one moment more on the  
15 timing, Your Honor. You know, we -- it seems to me that the  
16 issue that we're talking about here is the issue relating to  
17 the indirect proceeds of transfers or transfers -- well,  
18 should I say of rather, proceeds of indirect transfers from  
19 Purdue and whether or not if we use those proceeds it  
20 wouldn't violate the anti-secretion language. Now I found  
21 that argument to be somewhat puzzling, and again, I'm going  
22 to speak a little bit against my own interest because I  
23 don't believe the anti-secretion language is limited to  
24 proceeds from Purdue. I mean, we've agreed to the anti-  
25 secretion language with respect to all of our assets whether

1 or not --

2 THE COURT: I agree. I think the proceeds point  
3 only goes to the 550 point as far as immediate or  
4 intermediate transferees. You don't need to -- this  
5 language prohibits any transfer that's material.

6 MR. UZZI: Well, I agree with that, Your Honor.  
7 And -- well, it prohibits a transfer that would be -- that  
8 would materially frustrate this Court's ability to enter or  
9 exercise a judgment.

10 THE COURT: Right.

11 MR. UZZI: Right, which I believe that were  
12 outside of this language for that purpose. But more  
13 importantly, Your Honor, I mean, what we --

14 THE COURT: Why? Is it because of the financial  
15 disclosure that I haven't seen and the assessment of the  
16 case? I mean, I -- you -- it may well be true. I mean --  
17 and I don't have people jumping up and down and telling me  
18 that, you know, this is going to deplete our recovery. In  
19 fact, my sense is just the opposite. But I really don't  
20 have that record today. I'm not suggesting that people need  
21 to put it in front of me necessarily but I don't have it  
22 today.

23 MR. UZZI: But even if that's the case -- I don't  
24 believe it's applicable because I don't believe that that  
25 was ultimately the intent of this language, putting aside

1 the facts and needing to take into consideration --

2 THE COURT: Well, I don't have that before me  
3 either. I have the language in front of me and the language  
4 says what it says. In fact, no one has quoted to me any of  
5 the transcripts. They're just telling me what they believe  
6 was said. So enough of that. I have the language that's in  
7 front of me.

8 MR. UZZI: Fair enough, Your Honor. What we've  
9 heard here today, though, is really an attempt to try and  
10 use the -- a delay in a determination here to get me to make  
11 some sort of admission that is against my interest that is  
12 irrelevant, really, to whether this relief should be  
13 granted.

14 THE COURT: I agree with you on -- I think I was  
15 pretty clear with Mr. Price. I don't see why that is at all  
16 appropriate. I agree with you on that point.

17 MR. UZZI: And so therefore, Your Honor, and very  
18 respectfully, Your Honor, I question why we would -- what  
19 else do we need to address at this point that we will  
20 address on November 17th that we haven't already addressed  
21 today. And certainly your comments on the order, Your Honor  
22 -- we have no issues with your additional comments on the  
23 order. Again, we're not trying here today to play any sort  
24 of litigation tactic games in trying to get it -- some sort  
25 of advantage. We just would like to advance this. We think

1 that it's beneficial, Your Honor. That's all I have to say.

2 THE COURT: Okay. And I -- that's fine. I don't  
3 think you are trying to get any sort of advantage. On the  
4 other hand, I don't really see a disadvantage in letting the  
5 mediation proceed for another three weeks to see where we  
6 are at that point. I just -- you know, it, to me -- I think  
7 as far as the mediation and the negotiations between the  
8 Sacklers and the states are concerned, it appears to me that  
9 this settlement is a positive development not a negative  
10 development. On the other hand, I'm not a party to those  
11 negotiations and having seen it, I don't see a risk to the  
12 settlement of granting -- of adjourning the motion or in  
13 fact even saying that we'll hear this motion on regular  
14 notice with any other objections to come in on the 3rd of  
15 November.

16 I don't think there will be any other objections  
17 that aren't already encompassed by the thoughtful objection  
18 raised by the committee and the non-consenting states. I  
19 mean, I think the record is clear. I'm not approving this  
20 settlement. This is the United States judgment as to  
21 whether they want to enter into this or not -- you know, the  
22 DOJ on behalf of the United States and the agencies. I'm  
23 certainly not approving from the Sacklers' perspective. I'm  
24 just dealing with one provision in an order which, to me, I  
25 think I will need to say to make it clear -- and this is

1 consistent with the order -- I mean, I'm sorry, with the  
2 paragraph 2 of the settlement -- this order is deemed not to  
3 violate paragraph 13 or any other order of the court.

4 And to the extent it would, the covered parties  
5 are relieved from paragraph 13 to make the payment but then  
6 with the other protective language we've discussed and  
7 ultimately, the only issue then is whether in fact a payment  
8 of \$225 million to the federal government contravenes the  
9 purpose -- I think it probably contravenes the language --  
10 but contravenes the purpose of paragraph 13. It probably  
11 doesn't but it would appear to me it's probably better to  
12 have the mediation play out at least over the next two-and-  
13 a-half weeks to see whether we even to make that ruling.

14 MR. UZZI: Understood, Your Honor. If --

15 THE COURT: You know, I just -- I think I can't  
16 really say any more than that with the one caveat. If the  
17 Department of Justice or their boss can say, this money is  
18 going as soon as we can deliver it to abatement and -- you  
19 know, then I don't think anyone would object to this. And  
20 frankly, I think they'd get a medal. But that's just me  
21 talking. That's the other way to resolve this and it's a  
22 way that would make a lot of people happy. So I'd like to  
23 see whether one of two things can happen.

24 I think the first of those two things would make a  
25 lot of people happy, too, which is an overall agreement

1 here. If it doesn't happen, you know, maybe the second  
2 would moot everything and make a lot of people happy. If  
3 neither of those things happen, I think you have a sense of  
4 where I'm going to come out on this, perhaps with a little  
5 more evidence to support it and a clear order. But that's  
6 really where I'm coming out, frankly.

7 MR. UZZI: Your Honor, if I may ask. The November  
8 17th calendar is crowded. We've -- you've already heard  
9 substantial argument on this.

10 THE COURT: I agree. I'm not thinking of a lot  
11 more here. I'm not really thinking of this as, you know,  
12 another two hours of argument. You know, unless someone  
13 makes a brand-new point that they want to make an objection  
14 that isn't easily addressed, I think that we probably just  
15 need an update and probably a revised order.

16 MR. HUEBNER: Your Honor, one small point -- this  
17 is Marshall Huebner -- from my end. I actually did not want  
18 to burden the Court and the parties before. I actually have  
19 all six citations from the transcripts right in front of me  
20 on my screen. I didn't read them because I thought it would  
21 be a burden. It sounded that maybe the Court was a little  
22 frustrated that you didn't hear how parties described this  
23 provision so if that's helpful now --

24 THE COURT: Well, I can hear on the -- I can hear  
25 it on the 17th or you could submit that. I mean, that's



1 just you, right?

2 MR. HUEBNER: I just didn't -- I didn't want the  
3 Court to think that we were unprepared to address concerns  
4 that might have come up and --

5 THE COURT: No. No, that's fine.

6 MR. HUEBNER: -- I made a decision to say, let me  
7 go through them. I have them right here. But, you know, we  
8 actually do have them fully collated and are happy to make  
9 them, obviously, available to people.

10 THE COURT: Okay.

11 MR. ECKSTEIN: Your Honor, if I may. This is Mr.  
12 Eckstein. Can I just -- can I make one brief comment if --  
13 I know that the hour's late.

14 THE COURT: Sure.

15 MR. ECKSTEIN: I appreciate Your Honor has  
16 indicated your ruling and hearing this on the 17th. We'll  
17 abide by that. I did want to make the point, Your Honor,  
18 that we thought that today's motion was narrow. We actually  
19 believe that the points raised by the UCC and the non-  
20 consenting states were very well taken and we actually shard  
21 in those points and we thought that the resolution --  
22 resolutions that were proposed in a modified order and as  
23 further clarified by Your Honor were very helpful and we  
24 thought actually protected the estate against any potential  
25 risk that the payment if it's ultimately made to the

1 Sacklers could be used adversely against the estate. And so  
2 we felt the actions were appropriate. The solution was  
3 appropriate and we actually thought that this matter has  
4 been effectively resolved.

5 Nonetheless, I gather Your Honor is inclined to  
6 defer this to the 17th. I will say from a personal  
7 standpoint, Your Honor, I think particularly in this case  
8 were there are very, very sort of big picture macro issues,  
9 we tend to believe that certainty is advantageous to the  
10 estate and on balance I would prefer that we lock down as  
11 much as can and to the extent this is put into place, we  
12 think that would be advantageous. If it's going to wait  
13 until the 17th, we can abide that. But I hope that there's  
14 no implication taken that if the mediation can be delayed  
15 further, that that somehow will further delay locking this  
16 down. So we just wanted to make that point clear that we  
17 are looking to try to create as much certainty as possible  
18 so we can button down open issues in the case including the  
19 DOJ.

20 THE COURT: Right. Well, I -- that's well taken.  
21 On the other hand, I do have a contract here and I don't  
22 think either side could really get out of it, frankly, in  
23 this context based on carrying the hearing to the 17th.  
24 I'll reiterate that I think about 98 percent of the record  
25 is before me already. I would like to see the revised

1 order. I think it is clear that I don't believe, although  
2 it was a nice try, that one can reasonably back the Sacklers  
3 into saying that this payment will be made from funds that  
4 aren't indirectly proceeds of distributions unless you  
5 define it in a way that they could actually make that  
6 statement which I don't people want to do. So the focus is  
7 really on protecting judgment creditors and the estate under  
8 550 or the equivalent and I think you can do that. I'd like  
9 to see the order.

10 But I'd also like to have the parties move ahead  
11 in the light of this agreement which again, I think,  
12 although I'm not involved in the mediation, obviously, is a  
13 very constructive step in the case. Or alternatively, for  
14 the federal government to say the money's going was -- said  
15 I hope it will go. Either of those things, I think, will  
16 bring a prompt resolution to this and, yes, I'm not looking  
17 to adjourn this any -- or carry it any longer than mid-  
18 November.

19 So I'll trust the parties are all focused on  
20 resolving these issues with the Sacklers, not just this  
21 issue that was today's hearing but the overall issues. I  
22 think it is a very positive step that the federal government  
23 has worked out its civil issues with the Sacklers to the  
24 extent set forth in the settlement and its issues with the  
25 debtors in the way that it has. And I think that should

1 foster movement in the mediation. So enough said on that.  
2 I will carry the hearing. I will not take any more  
3 objections to this motion beyond November 3 and I don't  
4 contemplate having a lengthy hearing at that time but more  
5 of an update.

6 MR. HUEBNER: Your Honor, one tiny process  
7 question. This is Marshall Huebner. Since the objectors  
8 and obviously a deeply involved party including the debtors  
9 are the ad hoc committee on accountability, the non-  
10 consenting states, and the UCC, and since in fact I think  
11 that when we all sit down and look at the transcript Your  
12 Honor may have actually given enough guidance to get  
13 everything squared away with an order -- I just don't know  
14 yet -- if the parties are able to agree on an order -- those  
15 four parties and obviously the Unites States of America as  
16 well -- maybe submit it (indiscernible) of counsel or do you  
17 prefer that even it's agreed to and the parties would like  
18 it submitted, that we're sort of not allowed to and have to  
19 wait and add it to the docket of the 17th?

20 THE COURT: No. You could submit it. I think  
21 you'd probably want to wait until the 3rd, but I think you  
22 could submit it. I mean, I know you could submit it.

23 MR. HUEBNER: Absolutely. Okay. Forget I --  
24 maybe I'm too --

25 THE COURT: But I referred you to -- if you can

1 resolve it I think you -- look, Mr. Uzzi did say something  
2 at the beginning and frankly, Mr. Fogelman said something,  
3 both of which are important. This issue it was important to  
4 flag. Now the fact that this payment was going to be -- was  
5 contemplated and that there was an issue as to whether it  
6 would be coming from -- directly or indirectly -- proceeds  
7 of distributions from Purdue. The government was absolutely  
8 right to want that flagged publicly. That was important.

9 Mr. Uzzi was right in saying it was important to  
10 get this in front of the Court promptly to get direction as  
11 to whether I believed on notice to parties and interests  
12 that this payment would violate my order and if so, whether  
13 they could get relief from it. So I don't -- but we've now  
14 had that hearing. I think you know where I'm coming out. I  
15 doubt there will be any new points raised so I think you  
16 have a fair amount of guidance on how to deal with it.

17 MR. HUEBNER: Yep. And we will try to push it  
18 forward.

19 THE COURT: So unless there's anything more to be  
20 said, I think that will conclude today's calendar on Purdue.  
21 Am I right (indiscernible)?

22 MR. UZZI: Your Honor, just one administrative  
23 question. Again, Gerard Uzzi. Would you like us to file a  
24 notice with respect to the objection and the continuation or  
25 is this record sufficient?

1 THE COURT: I think you should file a notice.

2 MR. UZZI: Okay. Thank you, Your Honor.

3 THE COURT: Okay. Thank you. And you can put in  
4 the notice the parties should refer to the transcript of the  
5 hearing if they -- for further direction on the nature of  
6 the hearing on the 17th if there is to (indiscernible).

7 MR. UZZI: Thank you. Yes, Your Honor.

8 THE COURT: Okay. Great. Thank you. Thanks  
9 everyone.

10 MR. UZZI: Thank you.

11 MR. FOGELMAN: Thank you, Your Honor.

12 MR. QUINN: Thank you, Your Honor.

13 (Whereupon these proceedings were concluded at

14 3:12 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: October 30, 2020